THE NATIONAL ARCHIVES

FEDERAL REGISTER

OF THE UNITED STATES 1934

VOLUME 16 NUMBER 62

Washington, Friday, March 30, 1951

TITLE 6—AGRICULTURAL CREDIT

Chapter IV—Production and Marketing Administration and Commodity Credit Corporation, Department of Agriculture

Subchapter C—Loans, Purchases, and Other Operations

[1951 C. C. C. Grain Price Support Bulletin 1, Supp. 1, Wheat]

PART 601—GRAINS AND RELATED COMMODITIES

SUBPART—1951-CROP WHEAT LOAN AND PURCHASE AGREEMENT PROGRAM

A price support program has been announced for the 1951 crop of wheat. The 1951 C. C. C. Grain Price Support Bulletin 1 (16 F. R. 1987), issued by the Commodity Credit Corporation and containing the general requirements with respect to price support operations for grains and related commodities produced in 1951, is supplemented as follows:

Sec.
601.1211 Purpose.
601.1212 Availability of price support.
601.1213 Eligible wheat.
601.1214 Warehouse receipts.
601.1215 Determination of quantity.
601.1216 Determination of quality.
601.1217 Maturity of loans.
601.1218 Determination of support rates.
601.1219 Warehouse charges.
601.1220 Settlement.

AUTHORITY: §§ 601.1211 to 601.1220 issued under sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. Sup., 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 401, 63 Stat. 1051, 1054; 15 U. S. C. Sup., 714c, 7 U. S. C. Sup., 1441, 1421.

§ 601.1211 *Purpose.* Sections 601.1211 to 601.1220 state additional specific requirements which, together with the general requirements contained in the 1951 C. C. C. Grain Price Support Bulletin 1 (16 F. R. 1987) apply to loans and purchase agreements under the 1951-Crop Wheat Price Support Program.

§ 601.1212 *Availability of price support*—(a) *Method of support.* Price support will be made available through farm-storage and warehouse-storage loans and through purchase agreements.

(b) *Area.* Farm-storage and warehouse-storage loans and purchase agreements will be available wherever wheat is grown in the continental United States except that farm-storage loans will not be available in areas where the PMA State committee determines that wheat cannot be safely stored on the farm.

(c) *Where to apply.* Application for price support should be made at the office of the PMA county committee which keeps the farm-program records for the farm.

(d) *When to apply.* Loans and purchase agreements will be available from the time of harvest through January 31, 1952, and the applicable documents must be signed by the producer and delivered to the county committee not later than such date.

(e) *Eligible producer.* An eligible producer shall be an individual, partnership, association, corporation, or other legal entity producing wheat in 1951 as landowner, landlord, tenant or sharecropper.

§ 601.1213 *Eligible wheat.* At the time the wheat is placed under loan or delivered under a purchase agreement, it must meet the following requirements:

(a) The wheat must have been produced in the continental United States in 1951 by an eligible producer.

(b) The beneficial interest in the wheat must be in the person tendering the wheat for loan or for delivery under a purchase agreement, and must always have been in him, or must have been in him and a former producer whom he succeeded before the wheat was harvested.

(c) Such wheat must be:

(1) Wheat of any class grading No. 3 or better; or

(2) Wheat of any class grading No. 4 or 5 on the factor of "test weight" and/or because of containing "Durum" and/or "Red Durum" but otherwise grading No. 3 or better. (If the wheat

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Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Federal Register Division, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

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is warehouse stored, the quality of the wheat must be evidenced by a statement on the warehouse receipt, the inspection certificate, the supplemental certificate, or supplemental certificate and delivery order in the case of warehouses operated by eastern common carriers, substantially as follows: "This wheat grades No. _____ because of _____"); or

(3) Wheat of the class Mixed Wheat, consisting of mixtures of grades of eligible wheat as stated in subparagraphs (1) or (2) of this paragraph provided such mixtures are the natural products of the field.

(d) Wheat grading Tough, Weevily, or Ergoty, shall not be eligible, except that wheat represented by warehouse receipts grading tough or weevily will be eligible if the warehouseman certifies on the supplemental certificate or on a statement attached to the warehouse receipt "That wheat grading "tough" or weevily" has been processed at the request of the eligible producer, and that delivery will be made of the same country-run quality, quantity, grade and protein (if any), not tough or weevily, and no lien for processing will be claimed by the warehouseman from Commodity Credit Corporation or any subsequent holder of said warehouse receipt."

(e) Except as provided in paragraph (d) of this section wheat of the class hard red spring, durum, or red durum, shall not contain more than 14½ percent moisture, and wheat of any other class shall not contain more than 14 percent moisture.

(f) If offered as security for a farm-storage loan, the wheat must have been stored in the granary at least 30 days prior to its inspection for measurement, sampling, and sealing, unless otherwise approved by the PMA State committee.

§ 601.1214 *Warehouse receipts.* Warehouse receipts, representing wheat in approved warehouse storage to be placed under loan or delivered under a purchase agreement, must meet the following requirements of this section:

(a) Warehouse receipts must indicate that the wheat is insured, must be issued in the name of the producer, must be properly endorsed in blank so as to vest title in the holder and must be issued by a warehouse approved by CCC under the Uniform Grain Storage Agreement (Insured in accordance with the terms of the Uniform Grain Storage Agreement), or warehouses operated by eastern common carriers under tariffs approved by the Interstate Commerce Commission for which custodian agreements are in effect.

(b) Each warehouse receipt or the warehouseman's supplemental certificate (in duplicate) properly identified with the warehouse receipt must show: (1) Gross weight or bushels, (2) class and subclass, (3) grade (including special grades), (4) test weight, (5) dockage, (6) protein content (where determined by protein analysis or station average), and (7) any other grading factor(s) when such factor(s), and not test weight, determine the grade.

Also, the warehouse receipt or the warehouseman's supplemental certificate must show whether the wheat arrived by rail, truck, or barge. In the case of warehouse receipts issued for wheat delivered by rail or barge, the grading factors, classes and subclasses, protein content (where determined by protein analysis) on the warehouse receipt must agree with the inbound inspection and protein certificates for the car or barge when such certificates are issued.

(c) In the case of warehouse receipts issued for wheat delivered by rail or barge, the protein content, as determined by a recognized protein testing laboratory, must be shown on each warehouse receipt (or supplemental certificate accompanying the warehouse receipt) representing wheat of the subclasses of hard red spring and hard red winter and the varieties of Early Baart and Bluestem of the subclass hard white wheat, except that protein content need not be shown for the subclasses hard winter, and yellow hard winter produced in States or areas tributary to markets where a showing of protein content is not customarily required.

(d) A separate warehouse receipt must be submitted for each grade and subclass of wheat.

(e) The warehouse receipt may be subject to liens for warehouse charges only to the extent indicated in § 601.1219.

(f) Warehouse receipts representing wheat which has been shipped by rail or water from a country shipping point to a designated terminal point or shipped by rail or water from a country shipping point to a storage point and stored in transit to a designated terminal point, must be accompanied by registered freight bills, or by (1) a statement as indicated below signed by the warehouseman, (2) a certificate of the warehouseman containing such information or (3) such form of certificates as may be approved by CCC.

FREIGHT CERTIFICATE

The wheat represented by attached warehouse receipt No. _____ issued by _____ on warehouse located at _____ was received by rail freight from _____ (Station) _____ point of (County) (State) origin as evidenced by freight bill described as follows:

Way-bill, date _____
No. _____
Car initials and No. _____
Freight bill, date _____
No. _____
Origin carrier _____
Full inbound route and junction points _____
_____
Transit weight _____
Freight rate in _____
Amount collected _____
Guaranteed transit balance, if any, of through freight to _____ of _____ per 100 pounds _____
Number unused transit stops _____
Penalty, if any, to guarantee minimum proportional rate on outbound billing of _____ _____ cents per 100 pounds _____
Where paid-in freight is based on other than domestic interstate freight rate basis, the difference in rates between the freight paid (plus tax), and the domestic interstate freight rate (plus tax), is _____

The above-described paid freight bill has been officially registered for transit and will be held in accordance with the applicable provisions of the Uniform Grain Storage Agreement.

_____
(Warehouseman's Signature)
_____
(Address)
_____
(Date of Signature)

§ 601.1215 *Determination of quantity.* The quantity of wheat placed under farm-storage loan may be determined either by weight or by measurement. The quantity of wheat placed under a warehouse-storage loan or delivered under a farm-storage loan or under a purchase agreement shall be determined by weight.

When a quantity is determined by weight, a bushel shall be 60 pounds of wheat free of dockage. In determining the quantity of sacked wheat by weight, a deduction of ¾ of a pound for each sack shall be made.

When the quantity of wheat is determined by measurement, a bushel shall be 1.25 cubic feet of wheat testing 60 pounds per bushel. The quantity determined shall be the following percentages of the quantity determined for 60 pound wheat:

For wheat testing:	Percent
65 pounds or over	108
64 pounds or over, but less than 65 pounds	107
63 pounds or over, but less than 64 pounds	105
62 pounds or over, but less than 63 pounds	103
61 pounds or over, but less than 62 pounds	102
60 pounds or over, but less than 61 pounds	100
59 pounds or over, but less than 60 pounds	98
58 pounds or over, but less than 59 pounds	97
57 pounds or over, but less than 58 pounds	95
56 pounds or over, but less than 57 pounds	93
55 pounds or over, but less than 56 pounds	92
54 pounds or over, but less than 55 pounds	90
53 pounds or over, but less than 54 pounds	88
52 pounds or over, but less than 53 pounds	87
51 pounds or over, but less than 52 pounds	85
50 pounds or over, but less than 51 pounds	83

The percentage of dockage shall be determined and the weight of such dockage shall be deducted from the gross weight of the wheat in determining the net quantity available for loan or purchase.

§ 601.1216 *Determination of quality.* The class, subclass, grade, grading factors, and all other quality factors shall be determined in accordance with the methods set forth in the Official Grain Standards of the United States for Wheat, whether or not such determinations are made on the basis of an official inspection.

In the States of California, Idaho, New Mexico, Nevada, Oregon, Utah, and Washington, the quantity of smut shall be stated in terms of half percent, whole percent, or whole and half percent, and the quantity of smut so determined in pounds shall be deducted from the weight of the wheat after deduction of dockage. Elsewhere the smut condition of the wheat shall be determined on a degree basis. Where applicable, the words "light smutty" or "smutty" shall be added to, and made a part of, the grade designation.

The garlic condition of the wheat shall be made a part of the grade designation by addition of the words "light garlicky" or the word "garlicky".

§ 601.1217 *Maturity of loans.* Loans mature on demand but not later than April 30, 1952.

§ 601.1218 *Determination of support rates.* Basic support rates for wheat will be set forth in 1951 CCC Grain Price Support Bulletin 1, Supplement 2, Wheat, and will be established for No. 1 dark hard winter, No. 1 hard winter, No. 1 yellow hard winter, No. 1 red winter, No. 1 western red, No. 1 soft white, No. 1 white club, No. 1 western white, No. 1 hard white, No. 1 heavy dark northern spring, No. 1 heavy northern spring, No. 1 hard amber durum, No. 1 amber durum, and No. 1 durum. These support rates will be established for wheat stored in approved warehouse

storage at designated terminal markets, and for wheat stored in approved country warehouses and in approved farm storage. The support rate for the quality of wheat placed under a loan or delivered under a purchase agreement shall be the applicable basic support rate adjusted in accordance with the provisions of this section.

(a) *Support rates at designated terminal markets.* Wheat eligible for loan or purchase at the support rate established for designated terminal markets must have been shipped on a domestic interstate freight rate basis. On any wheat shipped at other than the domestic interstate freight rate the support rate at the designated terminal market shall be reduced by the difference between the freight paid (plus tax) and the domestic interstate freight rate (plus tax).

The support rates established for designated terminal markets apply to wheat which has been shipped by rail or water from a country shipping point to one of the designated terminal markets, as evidenced by paid freight bills duly registered for transit privileges: *Provided*, That in the event the amount of paid-in freight is insufficient to guarantee the minimum proportional domestic interstate freight rate from the terminal market, there shall be deducted from the applicable terminal support rate the difference between the amount of freight actually paid in and the amount required to be paid in to guarantee outbound movement at the minimum proportional domestic interstate freight rate.

When shipped by rail or water and stored at any designated terminal market, wheat for which neither registered freight bills nor such freight certificates are presented to guarantee outbound movement at the minimum proportional domestic interstate freight rate, shall have a support rate equal to the terminal rate minus 8 cents per bushel.

For wheat received by truck and stored at any designated terminal market, the support rate shall be determined by making a deduction from the terminal rate as follows:

Terminal located in:	*Amount of deduction (cents per bushel)*
Area I: Arizona, California, Idaho, Minnesota, Montana, Nevada, North Dakota, Oregon, South Dakota, Washington, Utah	12½
Area II: Colorado, Illinois, Iowa, Kansas, Missouri, Nebraska, Wyoming, Wisconsin	13
Area III: Connecticut, Delaware, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia	14
Area IV: Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas	14

(b) *Support rates for wheat in approved warehouse storage at other than designated terminal markets.* (1) Except for the States designated in subparagraph (2) of this paragraph, the support rate for wheat stored in approved warehouses (other than those situated in the designated terminal markets) which is shipped by rail or water shall be determined by deducting from the appropriate designated terminal market rate an amount equal to the transit balance, if any (plus tax) of the through-freight rate from point of origin for such wheat to such terminal market: *Provided*, That in the case of wheat stored at any railroad transit point, taking a penalty by reason of out-of-line movement, or for any other reason, to the appropriate designated market, there shall be added to such transit balance an amount equal to any out-of-line costs or other costs incurred in storing wheat in such position.

(2) In the States of Delaware, Kentucky, Maryland, New Jersey, North Carolina, Tennessee, Virginia and West Virginia, the PMA commodity office shall, upon request of the county committee, determine the support rate for wheat stored in approved warehouses (except those situated at designated terminal markets) which was shipped by rail in the movement of natural market direction as approved by CCC, by adding to the county rate for the county from which the wheat was shipped an amount per bushel equal to the receiving and loading-out charges computed in accordance with the applicable rates of the Uniform Grain Storage Agreement for the 1951 crop and an amount equal to the transit value of the freight paid (plus tax) from points of origin to markets designated by CCC. The warehouse receipts must be accompanied by the original paid freight bills or certificates of the warehouseman and other required documents as set forth in § 601.1214 (f). If the wheat is stored in approved warehouses located at transit points, taking a penalty by reason of backhaul, or out-of-line of natural market movements, such penalty or other costs by reason of such movement, as determined by CCC, shall be deducted from the support rates as determined in this paragraph.

(c) *Discounts and premiums.* The basic support rates shall be adjusted by the premiums and discounts listed in subparagraph (1) of this paragraph, to determine the support rate for wheat of different classification and quality.

(1) *Classification discounts.*

	Cents per bushel
No. 1 mixed wheat	2
No. 1 red durum	15
No. 1 mixed wheat (containing less than 5 percent of wheats of the classes durum and/or red durum)	2
No. 1 mixed wheat (containing 5 percent or more but less than 10 percent of wheats of the classes durum and/or red durum)	6
No. 1 mixed wheat (containing in excess of 10 percent of wheats of the classes durum and/or red durum)	15
No. 1 mixed wheat grading amber mixed durum	5
No. 1 mixed wheat grading mixed durum	10
Wheat otherwise eligible but grading No. 4 or 5 because it contains wheat of the classes durum and/or red durum	6

(2) *Grade discounts.*

	No. 1 heavy dark northern spring, No. 1 heavy northern spring, No. 1 heavy red spring	No. 1 dark hard winter, No. 1 hard winter, No. 1 yellow hard winter, No. 1 red winter, No. 1 western red, No. 1 hard white, No. 1 soft white, No. 1 white club, No. 1 western white, No. 1 hard amber durum, No. 1 amber durum, No. 1 durum, No. 1 amber mixed durum, No. 1 mixed durum, No. 1 red durum, No. 1 mixed wheat
	Cents per bushel	*Cents per bushel*
No. 1 (not heavy)	1	0
No. 2	2	1
No. 3	4	3
No. 4 (on test weight only; otherwise No. 3 or better)	6	6
No. 5 (on test weight only; otherwise No. 3 or better)	9	9
Smut-degree basis		
Light smutty	2	2
Smutty	6	6
Smut-percentage basis		
½ of 1 percent	1	1
1 percent or over	3	3
Garlic-degree basis		
Light garlicky	6	6
Garlicky	15	15

(3) *Protein premiums.*

Protein content (percent)	Wheat stored in the States of Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and designated counties in Montana based on Portland—hard red spring; hard red winter; hard white wheat of the varieties Early Baart and Bluestem	All other States and counties in Montana based on Minneapolis	
		Hard red spring	Hard red winter
	Cents per bushel	*Cents per bushel*	*Cents per bushel*
10.0–10.9	1	0	0
11.0–11.9	2	0	0
12.0–12.9	3	0	0
13.0–13.9	4	1	1
14.0–14.4	4½	2	1½
14.5–14.9	5	3	2
15.0–15.4	6	4	2½
15.5–15.9	7	5	3
16.0–16.4	8	6	3½
16.5–16.9	9	7	4
17.0–17.4	10	8	4½
Over 17.4	(1)	(1)	(2)

[1] 1 cent for each ½ percent of protein over 17.4 percent.
[2] ½ cent for each ½ percent of protein over 17.4 percent.

§ 601.1219 *Warehouse charges.* Warehouse receipts and the wheat represented thereby stored in approved warehouses operating under the Uniform Grain Storage Agreement may be subject to liens for warehouse handling and storage charges not to exceed the Uniform Grain Storage Agreement rates from the date the grain is deposited in the warehouse for storage.

Where the date of deposit (the date of the warehouse receipt if the date of deposit is not shown) on warehouse receipts representing wheat stored in warehouses operating under the Uniform Grain Storage Agreement is on or before April 30, 1952, the storage charges shown in the following table shall be deducted in computing the amount of the loan or purchase price.

Date of deposit	Area I—Arizona, California, Idaho, Minnesota, Montana, Nevada, North Dakota, Oregon, South Dakota, Washington, Utah	Area II—Colorado, Illinois, Iowa, Kansas, Missouri, Nebraska, Wyoming, Wisconsin	Area III—Connecticut, Delaware, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia	Area IV—Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas
	Cents per bushel	*Cents per bushel*	*Cents per bushel*	*Cents per bushel*
Prior to Sept. 3, 1951	10	10½	11	11½
Sept. 3–Sept. 22, inclusive	10	10½	11	11
Sept. 23–Oct. 12, inclusive	10	10	10	10
Oct. 13–Nov. 1, inclusive	9	9	9	9
Nov. 2–Nov. 21, inclusive	8	8	8	8
Nov. 22–Dec. 11, inclusive	7	7	7	7
Dec. 12–Dec. 31, inclusive	6	6	6	6
Jan. 1–Jan. 20, inclusive, 1952	5	5	5	5
Jan 21–Feb. 9, inclusive	4	4	4	4
Feb. 10–Mar. 1, inclusive	3	3	3	3
Mar. 2–Mar. 21, inclusive	2	2	2	2
Mar. 22–Apr. 10, inclusive	1	1	1	1
Apr. 11–Apr. 30, inclusive	0	0	0	0

Warehouse receipts and the wheat represented thereby stored in approved warehouses operated by eastern common carriers may be subject to liens for warehouse elevation (receiving and delivering) and storage charges from the date of deposit at rates approved by the Interstate Commerce Commission.

For wheat stored in approved warehouses operated by eastern common carriers there shall be deducted in computing the loan or purchase price the amount of the approved tariff rates for storage (not including elevation), which will accumulate from the date of deposit to the program maturity date. The county committee shall request the PMA commodity office to determine the amount of such charges. Where the producer presents evidence showing that the elevation has been prepaid, the amount of the storage charges to be deducted shall be reduced by the amount of the elevation charge prepaid by the producer.

§ 601.1220 *Settlement*—(a) *Farm-storage loans.* In the case of wheat delivered to CCC from farm-storage under the loan program, settlement shall be made at the applicable support rate for the approved point of delivery. The support rate shall be for the grade and quality of the total quantity of wheat delivered.

If the wheat under farm-storage loan is, upon delivery, of a grade and/or quality for which no support rate has been established, the settlement value shall be the support rate established for the grade and/or quality of the wheat placed under loan less the difference, if any, at the time of delivery, between the market price for the grade and/or quality placed under loan and the market price of the wheat delivered, as determined by CCC.

If farm stored wheat is delivered to CCC prior to April 30, 1952, upon request of the producer and with the approval of CCC, the loan settlement shall be reduced as set forth in the table in § 601.1219.

(b) *Purchase agreement.* Wheat delivered to CCC under a purchase agreement must meet the requirements of wheat eligible for loan. The purchase rate per bushel of eligible wheat shall be the support rate established for the approved point of delivery, subject to deduction of warehouse charges in accordance with § 601.1219.

(c) *Track-loading.* A track-loading payment of 2 cents per bushel shall be made to the producer on wheat delivered to CCC on track at a country point.

Issued this 27th day of March, 1951.

[SEAL] ELMER F. KRUSE,
Vice President,
Commodity Credit Corporation.

Approved:

FRANK K. WOOLLEY,
Acting President,
Commodity Credit Corporation.

[F. R. Doc. 51-3879; Filed, Mar. 29, 1951; 8:55 a. m.]

TITLE 7—AGRICULTURE

Chapter I—Production and Marketing Administration (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 51—FRUITS, VEGETABLES AND OTHER PRODUCTS (INSPECTION, CERTIFICATION, AND STANDARDS)

SUBPART B—UNITED STATES STANDARDS FOR FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS

UNITED STATES STANDARDS FOR BROCCOLI FOR PROCESSING

On February 15, 1951 a notice of rule making was published in the FEDERAL REGISTER (F. R. Doc. 51-2259; 16 F. R. 1595) regarding proposed United States Standards for Broccoli for Processing. After consideration of all relevant matters presented, including the proposals set forth in the aforesaid notice, the following United States Standards for Broccoli for Processing are hereby promulgated under the authority contained in the Department of Agriculture Appropriation Act, 1951 (Pub. Law 759, 81st Cong., approved September 6, 1950).

§ 51.147 *Standards for broccoli for processing*—(a) *General.* (1) The accompanying grades for broccoli are intended to facilitate transactions between growers and processors who may wish to use a purchasing system based upon the quality of broccoli delivered. These grades are an outgrowth of the widely accepted principle that price should be directly proportional to quality. The grower who delivers high quality deserves a premium price, because such broccoli enables the processor to pack a better quality finished product.

(2) In the application of these standards, it is assumed that sellers will not sort their broccoli into separate lots of

U. S. No. 1 and U. S. No. 2 grades before delivery to the buyer, and that the buyer will pay a certain price for the percentage of each grade in the lot as determined by inspection. Upon delivery, the inspector will simply sort representative samples taken from each lot and determine the percentage of each grade. Final settlement would then be made by applying the percentage of each grade to the total weight of the lot, and then applying the contract prices established for each grade. Under such a procedure, there is no need for tolerances.

(b) *Grades*—(1) *U. S. No. 1.* U. S. No. 1 consists of stalks of broccoli which are fresh, tender, and have good characteristic color, and compact heads; which are free from decay and cull material, and are free from damage caused by discoloration, freezing, hollow stem or pithiness, scars, dirt or other foreign material, disease, insects, and mechanical or other means. (See Trimming Requirements.)

(i) Unless otherwise specified, the length shall be not more than 6 inches nor less than 4 inches, and the diameter of the stem shall be not less than three-eighths inch. (See Cull Material.)

(2) *U. S. No. 2.* U. S. No. 2 consists of stalks of broccoli which are fresh, tender, and have good characteristic color, and fairly compact heads; which are free from decay and cull material, and are free from damage caused by scars, dirt or other foreign material, disease, insects; and are free from serious damage caused by discoloration, freezing, hollow stem or pithiness, and mechanical or other means. (See Trimming Requirements.)

(i) Unless otherwise specified, the length shall be not more than 6 inches nor less than 3 inches, and the diameter of the stem shall be not less than one-fourth inch. (See Cull Material.)

(c) *Culls.* Culls are stalks of broccoli which fail to meet the requirements of either of the foregoing grades.

(d) *Cull material.* (See definition No. 6.)

(e) *Trimming requirements.* Unless otherwise specified, all coarse, damaged, and discolored leaves and leaves extending more than one and one-half inches above the top of the head shall be removed. In making grade determinations, all coarse, damaged and discolored leaves, and leaves extending more than one and one-half inches above the top of the head shall be removed and scored as cull material.

(f) *Definitions.* (1) "Stalk" means a portion of the broccoli plant including the stem, bud cluster and leaves.

(2) "Fresh" means that the broccoli is not badly wilted or excessively flabby.

(3) "Tender" means that the broccoli is succulent, and reasonably free from fibrous material and is not tough, or stringy.

(4) "Good characteristic color" means that the stem and external portion of the head has a light green or darker shade of green color, except that purplish color shall also be allowed on the external portion of the head.

(5) "Compact head" means that the individual head is closely formed, not open or spread to the extent that it has a loose appearance, and that the individual florets are fairly tightly formed and not more than moderately elongated.

(6) "Cull material" means all foreign material, any portion of the stem in excess of the maximum length specified, all stalks under the minimum length specified for the U. S. No. 2 grade, and all coarse, damaged and discolored leaves, and leaves extending more than one and one-half inches above the top of the head.

(7) "Damage" means any defect which more than slightly affects the appearance, or the processing or edible quality of the head, or any portion of the stem within 5 inches from the top of the head. Any one of the following defects, or any combination of defects the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as damage:

(i) Discoloration, when more than very slight, or which will not change to light green or darker shade of green color in the ordinary process of blanching.

(ii) Freezing, when causing more than slight discoloration of the individual unit.

(iii) Hollow stem or pithiness, when discolored, or when more than slightly affecting the appearance of the individual unit.

(iv) Scars, when discolored, or when more than slight or superficial.

(v) Dirt or other foreign material, when more than slight, or which cannot be removed in the ordinary washing process.

(vi) Disease, when showing discoloration, or when more than slightly affecting the appearance, or the processing or edible quality.

(vii) Insects, when worms or worm frass are present, or when there is more than slight infestation by other insects.

(8) "Diameter" means the greatest thickness of the stem measured at a point 6 inches from the top of the head, except that stems which are less than 6 inches in length shall be measured at the base of the stem.

(9) "Fairly compact head" means that the individual head is fairly closely formed and not excessively spread and that the florets are not on the verge of opening and will not open in the ordinary process of blanching.

(10) "Serious damage" means any defect which materially affects the appearance, or the processing or edible quality of the head, or any portion of the stem within 5 inches from the top of the head. Any one of the following defects, or any combination of defects the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as serious damage:

(i) Discoloration, when the appearance of the individual unit is materially affected.

(ii) Freezing, when causing discoloration which materially affects the appearance of the individual unit.

(iii) Hollow stem or pithiness, when discolored, or when materially affecting the appearance of the individual unit. Units which show a ragged appearance or deep holes shall be considered as serious damage.

(g) *Effective time.* The United States Standards for Broccoli for Processing contained in this section shall become effective thirty (30) days after the date of publication in the FEDERAL REGISTER.

(Pub. Law 759, 81st Cong.)

Done at Washington, D. C., this 27th day of March 1951.

[SEAL] JOHN I. THOMPSON,
Assistant Administrator,
Production and Marketing
Administration.

[F. R. Doc. 51-3880; Filed, Mar. 29, 1951; 8:55 a. m.]

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

PART 905—MILK IN OKLAHOMA CITY, OKLA., MARKETING AREA

ORDER AMENDING ORDER, REGULATING HANDLING

§ 905.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Oklahoma City, Oklahoma, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that;

(1) The said order, as hereby amended, and all of the terms and conditions hereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supplies of and demand for milk in the marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order, as hereby amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary, in the public interest, to make this order, amending the order, effective not later than April 1, 1951, so as to reflect current market conditions. Any further delay beyond this time, in the effective date of this order, amending the order, will seriously impair the orderly marketing of milk in the Oklahoma City, Oklahoma, marketing area. The provisions of the said order are well known to handlers, the public hearing having been held December 11 and 12, 1950, and the decision of the Secretary having been issued on March 13, 1951. Therefore, reasonable time, under the circumstances, has been afforded persons affected to prepare for its effective date. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order, effective April 1, 1951, and that it would be impracticable, unnecessary and contrary to the public interest to delay the effective date of this order 30 days after its publication in the FEDERAL REGISTER (Sec. 4 (c) Administrative Procedure Act, Pub. Law 404, 79th Cong., 60 Stat. 237; 5 U. S. C. 1001 et seq.).

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing or shipping milk covered by this order amending the said order which is marketed within the Oklahoma City, Oklahoma, marketing area) of more than 50 percent of the milk which is marketed within the said marketing area, refused or failed to sign the marketing agreement regulating the handling of milk in the said marketing area, and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order, amending the order, is the only practical means, pursuant to the declared policy of the act of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order, amending the order, is approved or favored by at least two-thirds of the producers who participated in a referendum on the question of its approval and issuance, and who during the representative period (December 1950), were engaged in the production of milk for sale in the said marketing area.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Oklahoma City, Oklahoma, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

1. Add the following as § 905.14:

§ 905.14 *Base milk.* "Base milk" means producer milk received by a handler during any of the months of April through June which is not in excess of such producer's daily average base computed pursuant to § 905.65 multiplied by the number of days in such month for which such producer delivered milk to such handler.

2. Add the following as § 905.15:

§ 905.15 *Excess milk.* "Excess milk" means producer milk received by a handler during any of the months of April through June which is in excess of base milk received from such producer during such month, and shall include all milk received from a producer for whom no daily average base can be computed pursuant to § 905.65.

3. Delete § 905.22 (j) (2) and substitute therefor the following:

(2) On or before the 12th day of each month the uniform price(s) computed pursuant to § 905.71 or § 905.72, as applicable and the butterfat differential computed pursuant to § 905.81, both for the previous month; and

4. Delete § 905.30 (a) and substitute therefor the following:

(a) The quantities of skim milk and butterfat contained in milk received from producers, and, for the months of April through June, the aggregate quantities of base milk and excess milk;

(5) Delete § 905.31 (a) and substitute therefor the following: "(a) the total pounds of milk received from each producer and cooperative association, the total pounds of butterfat contained in such milk and the number of days on which milk was received from such producer, including for the months of April through June such producer's deliveries of base milk and excess milk;"

6. Delete § 905.51 (a) and (b) and substitute therefor the following:

(a) *Class I milk.* The basic formula price plus $1.45 during the months of April, May, and June and plus $1.85 during all other months: *Provided,* That for each of the months of September, October, November, and December, such price shall be not less than that for the preceding month, and that for each of the months of April, May, and June such price shall be not more than that for the preceding month.

(b) *Class II milk.* The average of the basic or field prices reported to have been paid or to be paid for ungraded milk of 4.0 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department:

Present Operator and Location

Fairmont Foods Co., Guthrie, Okla.
Wilson & Company, Blackwell, Okla.
Kraft Cheese Co., Sulphur, Okla.
Hawk Dairy, Tulsa, Okla.

Provided, That such price shall be not less than the average of the basic or field prices paid or to be paid for such milk by the Gilt Edge Dairy, Norman, Oklahoma.

7. Add the following as a center heading and §§ 905.65 and 905.66:

DETERMINATION OF BASE

§ 905.65 *Computation of daily average base for each producer.* For the months of April through June of each year the market administrator shall compute a daily average base for each producer as follows, subject to the rules set forth in § 905.66:

(a) Divide the total pounds of milk received by a handler(s) from such producer during the months of September through December immediately preceding by the number of days, not to be less than ninety, of such producer's delivery in such period: *Provided,* That for the months of April through June 1951, the total pounds of milk received by handlers from a producer in December 1950 and January 1951 shall be divided by 62 in order to determine such producer's daily average base.

§ 905.66 *Base rules.* The following rules shall apply in connection with the establishment of bases:

(a) A base shall apply to deliveries of milk by the producer for whose account that milk was delivered during the base forming period;

(b) Bases may be transferred only during the period of April through June by notifying the market administrator in writing before the last day of any month that such base is to be transferred to the person named in such notice only as follows:

(i) In the event of the death, retirement, or entry into military service of a producer, the entire base may be transferred to a member(s) of such producer's immediate family who carries on the dairy operations.

(ii) If a base is held jointly and such joint holding is terminated, the entire base may be transferred to one of the joint holders.

(c) A producer who ceases to deliver milk to a handler for more than 45 consecutive days shall forfeit his base.

8. Amend § 905.71 by deleting from the first sentence thereof the words: "For each month" and substituting therefor the words "For each of the months of July through March."

9. Add the following as § 905.72:

§ 905.72 *Computation of uniform prices for base milk and excess milk.* For each of the months of April through June the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 4.0 percent butterfat content, as follows:

(a) Combine into one total the values computed pursuant to § 905.70 for all handlers who made the reports prescribed in § 905.30 and who made the payments pursuant to §§ 905.80 and 905.83 for the preceding month;

(b) Add not less than one-half of the cash balance in the producer-settlement fund less the total amount of the contingent obligations to handlers pursuant to § 905.85;

(c) Subtract if the average butterfat content of the milk included in these computations is greater than 4.0 percent, or add if such average butterfat content is less than 4.0 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential computed pursuant to § 905.81 and mul-

tiplying the resulting figure by the total hundredweight of such milk;

(d) Compute the total value on a 4.0 percent butterfat basis of the excess milk included in these computations by multiplying the hundredweight of such milk not in excess of the total quantity of Class II milk included in these computations by the price for Class II milk of 4.0 percent butterfat content, multiplying the hundredweight of such milk in excess of the total hundredweight of such Class II milk by the price for Class I milk of 4.0 percent butterfat content, and adding together the resulting amounts;

(e) Divide the total value of excess milk obtained in paragraph (d) of this section by the total hundredweight of such milk, and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 4.0 percent butterfat content received from producers.

(f) Subtract the value of excess milk obtained in paragraph (d) of this section from the value of all milk obtained in paragraph (c) of this section and adjust by any amount involved in adjusting the uniform price for excess milk to the nearest cent;

(g) Divide the amount obtained in paragraph (f) of this section by the total hundredweight of base milk included in these computations;

(h) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (g) of this section. The resulting figure shall be the uniform price for base milk of 4.0 percent butterfat content received from producers.

10. Delete § 905.80 (a) and substitute therefor the following:

(a) On or before the 15th day after the end of the month during which the milk was received, to each producer (1) at not less than the uniform price computed pursuant to § 905.71 for all milk received from such producer, if such preceding month was any of the months of July through March, or (2) at not less than the uniform price for base milk computed pursuant to § 905.72, with respect to base milk received from such producer, and at not less than the uniform price for excess milk computed pursuant to § 905.72 with respect to excess milk received from such producer, if such preceding month was any of the months of April through June, in each case adjusted by the butterfat differential computed pursuant to § 905.81, and less the amount of the payment made pursuant to paragraph (b) of this section: *Provided*, That with respect to producers whose milk was caused to be delivered to such handler by a cooperative association which is authorized to collect payment for such milk, the handler shall, if the cooperative association so requests, pay such cooperative association, on or before the 13th day after the end of the month, an amount equal to the sum of the individual payments otherwise payable to such producers in accordance with this paragraph.

11. In §§ 905.83 and 905.84 delete "§ 905.80 (a)" wherever it appears and substitute therefor "§ 905.80."

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup., 608c)

Issued at Washington, D. C., this 27th day of March 1951, to be effective on and after the 1st day of April 1951.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 51-3883; Filed, Mar. 29, 1951; 8:56 a. m.]

PART 906—MILK IN THE TULSA, OKLA., MARKETING AREA

ORDER AMENDING THE ORDER REGULATING HANDLING

§ 906.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Tulsa, Oklahoma, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supplies of and demand for milk in the marketing area, and the minimum prices specified in the order, as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order, as hereby amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary, in the public interest, to make this order, amending the order, effective not later than April 1, 1951, so as to reflect current marketing conditions. Any further delay beyond this time in the effective date of this order, amending the order, will seriously impair orderly marketing of milk in the Tulsa, Oklahoma, marketing area. The provisions of the said order are well known to handlers, the public hearing having been held December 13 and 14, 1950, and the decision of the Secretary having been issued on March 13, 1951. Therefore, reasonable time, under the circumstances has been afforded persons affected to prepare for its effective date. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order, effective April 1, 1951, and that it would be impracticable, unnecessary and contrary to the public interest to delay the effective date of this order 30 days after its publication in the FEDERAL REGISTER (sec. 4 (c) Administrative Procedure Act, Public Law 404, 79th Cong., 60 Stat. 237; 5 U. S. C. 1001 et seq.).

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing or shipping milk covered by this order amending the said order which is marketed within the Tulsa, Oklahoma, marketing area) of more than 50 percent of the milk which is marketed within the said marketing area, refused or failed to sign the marketing agreement regulating the handling of milk in the said marketing area, and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order, amending the order, is the only practical means, pursuant to the declared policy of the act of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order, amending the order, is approved or favored by at least two-thirds of the producers who participated in a referendum on the question of its approval and issuance, and who during the representative period (December 1950), were engaged in the production of milk for sale in the said marketing area.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Tulsa, Oklahoma, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order as hereby amended, and the aforesaid order is hereby amended as follows:

1. Delete § 906.10 and substitute therefor the following:

§ 906.10 *Producer.* "Producer" means any person, other than a producer-handler, who produces milk which is received at an approved plant: *Provided*, That such milk is produced under a dairy farm permit, permit authorization or rating issued by any health authority having jurisdiction in the marketing area for the production of milk to be diposed of for consumption as Grade A milk. This definition shall include any such person who is regularly classified as a producer but whose milk is caused to be diverted by a handler to an unapproved plant, and milk so diverted shall be deemed to have been received at an approved plant

by the handler who causes it to be diverted. This definition shall not include a person with respect to milk produced by him which is received at a plant operated by a handler who is subject to another Federal marketing order and who is partially exempt from the provisions of this order pursuant to § 906.61.

2. Add the following as § 906.14:

§ 906.14 *Base milk.* "Base milk" means producer milk received by a handler during any of the months of April through June which is not in excess of each producer's daily average base computed pursuant to § 906.65 multiplied by the number of days in such month for which such producer delivered milk to such handler.

3. Add the following as § 906.15:

§ 906.15 *Excess milk.* "Excess milk" means producer milk received by a handler during any of the months of April through June which is in excess of base milk received from each producer during such month, and shall include all milk received from producers for whom no daily average base can be computed pursuant to § 906.65.

4. Delete § 906.22 (j) (2) and substitute therefor the following:

(2) On or before the 12th day of each month the uniform price(s) computed pursuant to § 906.71 or § 906.72, as applicable, and the butterfat differential computed pursuant to § 906.82, both for the previous month; and

5. Delete § 906.30 (a) and substitute therefor the following:

(a) The quantities of skim milk and butterfat contained in milk received from producers, and, for the months of April through June, the aggregate quantities of base milk and excess milk;

6. Delete § 906.31 (a) and substitute therefor the following: "(a) the total pounds of milk received from each producer and cooperative association, the total pounds of butterfat contained in such milk and the number of days on which milk was received from such producer including for the months of April through June such producer's deliveries of base milk and excess milk;"

7. Delete § 906.51 (a) and substitute therefor the following:

(a) *Class I milk.* The basic formula price plus $1.45 during the months of April, May, and June and plus $1.85 during all other months: *Provided,* That for each of the months of September, October, November, and December, such price shall be not less than that for the preceding month, and that for each of the months of April, May, and June such price shall be not more than that for the preceding month.

8. Add the following as a center heading and §§ 906.65 and 906.66:

DETERMINATION OF BASE

§ 906.65 *Computation of daily average base for each producer.* For the months of April through June of each year the market administrator shall compute a daily average base for each producer as follows, subject to the rules set forth in § 906.66:

(a) Divide the total pounds of milk received by a handler(s) from such producer during the months of September through December immediately preceding by the number of days, not to be less than ninety, of such producer's delivery in such period: *Provided,* That for the months of April through June 1951, the total pounds of milk received by handlers from a producer in December 1950 and January 1951 shall be divided by 62 in order to determine such producer's daily average base.

§ 906.66 *Base rules.* (a) A base shall apply to deliveries of milk by the producer for whose account that milk was delivered during the base forming period;

(b) Bases may be transferred only during the period of April through June by notifying the market administrator in writing before the last day of any month that such base is to be transferred to the person named in such notice only as follows:

(i) In the event of the death, retirement, or entry into military service of a producer the entire base may be transferred to a member(s) of such producer's immediate family who carries on the dairy operations.

(ii) If a base is held jointly and such joint holding is terminated, the entire base may be transferred to one of the joint holders.

(c) A producer who ceases to deliver milk to a handler for more than 45 consecutive days shall forfeit his base.

9. Amend § 906.71 by deleting from the first sentence thereof the words: "For each month" and substituting therefor the words "For each of the months of July through March."

10. Add the following as § 906.72:

§ 906.72 *Computation of uniform prices for base milk and excess milk.* For each of the months of April through June the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 4.0 percent butterfat content, as follows:

(a) Combine into one total the values computed pursuant to § 906.70 for all handlers who made the reports prescribed in § 906.30 and who made the payments pursuant to §§ 906.80 and 906.84 for the preceding month;

(b) Add the aggregate of the values of all allowable location adjustments to producers pursuant to § 906.81;

(c) Add not less than one-half of the cash balance in the producer-settlement fund less the total amount of the contingent obligations to handlers pursuant to § 906.85;

(d) Subtract if the average butterfat content of the milk included in these computations is greater than 4.0 percent, or add if such average butterfat content is less than 4.0 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential computed pursuant to § 906.82 and multiplying the resulting figure by the total hundredweight of such milk;

(e) Compute the total value on a 4.0 percent butterfat basis of excess milk included in these computations by multiplying the hundredweight of such milk not in excess of the total quantity of Class II milk included in these computations by the price for Class II milk of 4.0 percent butterfat content, multiplying the hundredweight of such milk in excess of the total hundredweight of such Class II milk by the price for Class I milk of 4.0 percent butterfat content, and adding together the resulting amounts;

(f) Divide the total value of excess milk obtained in paragraph (e) of this section by the total hundredweight of such milk, and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 4.0 percent butterfat received from producers.

(g) Subtract the value of excess milk obtained in paragraph (e) of this section from the value of all milk obtained in paragraph (d) of this section and adjust by any amount involved in adjusting the uniform price of excess milk to the nearest cent;

(h) Divide the amount obtained in paragraph (g) of this section by the total hundredweight of base milk included in these computations;

(i) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (h) of this section. The resulting figure shall be the uniform price for base milk of 4.0 percent butterfat content received from producers.

11. Delete § 906.80 (a) and substitute therefor the following:

(a) On or before the 15th day after the end of the month during which the milk was received, to each producer (1) at not less than the uniform price computed pursuant to § 906.71 for all milk received from such producer if such preceding month was any of the months of July through March, or (2) at not less than the uniform price for base milk computed pursuant to § 906.72, with respect to base milk received from such producer, and at not less than the uniform price for excess milk computed pursuant to § 906.72 with respect to excess milk received from such producer, if such preceding month was any of the months of April through June, in each case adjusted by the butterfat differential computed pursuant to § 906.82, subject to location adjustments to producers pursuant to § 906.81, less the amount of the payment made pursuant to paragraph (b) of this section: *Provided,* That with respect to producers whose milk was caused to be delivered to such handler by a cooperative association which is authorized to collect payment for such milk, the handler shall, if the cooperative association so requests, pay such cooperative association, on or before the 13th day after the end of the month, an amount equal to the sum of the individual payments otherwise payable to such producers in accordance with this paragraph.

12. In §§ 906.84 and 906.85 delete "§ 906.80 (a)" wherever it appears and substitute therefor "§ 906.80."

13. Amend § 906.87 (b) by deleting the period at the end thereof, substituting therefor a comma, and adding thereto the following: "identified by a statement showing for each such producer the information required to be reported to the market administrator pursuant to § 906.31. In lieu of such statement a handler may authorize the market administrator to furnish such cooperative association the information with respect to such producers reported pursuant to § 906.31."

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup., 608c)

Issued at Washington, D. C., this 27th day of March 1951, to be effective on and after the 1st day of April 1951.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 51-3884; Filed, Mar. 29, 1951; 8:57 a. m.]

PART 965—MILK IN THE CINCINNATI, OHIO, MARKETING AREA

ORDER AMENDING ORDER, AS AMENDED

§ 965.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Cincinnati, Ohio, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk produced for sale in the said marketing area as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supplies of and demand for such milk, and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary, in the public interest, to make this order amending the order, as amended, effective not later than April 1, 1951. Certain provisions hereof affect prices to be paid to producers for milk delivered in April 1951, and such provisions have been found to be necessary in order to insure a sufficient supply of pure and wholesome milk for the marketing area. The provisions hereof are well known to interested persons, a recommended decision proposing provisions identical with those contained herein, having been issued on February 21, 1951 (16 F. R. 1832) and a decision having been issued on March 12, 1951 (16 F. R. 2443). The changes effected by this order amending the order, as amended, do not require extensive preparation by persons affected prior to its effective date. The time intervening between the date of issuance and the effective date of this order amending the order, as amended, affords persons affected a reasonable time to prepare for its effective date. It is therefore found and determined that good cause exists for making this order amending the order, as amended, effective April 1, 1951, and that to delay the effective date 30 days after publication in the FEDERAL REGISTER would be impracticable, unnecessary, and contrary to the public interest.

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing or shipping milk covered by this order amending the order, as amended, which is marketed within the Cincinnati, Ohio, marketing area) of more than 50 percent of the milk which is marketed within the said marketing area, refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area, and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order amending the order, as amended, is the only practical means, pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order amending the order, as amended, is approved or favored by at least two-thirds of the producers who participated in a referendum on the question of approval of its issuance and who, during the determined representative period (January 1951), were engaged in the production of milk for sale in the said marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Cincinnati, Ohio, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended; and the aforesaid order, as amended, is hereby further amended as follows:

1. Amend § 965.51 (a) by adding thereto the following: "*Provided*, That from the effective date of this proviso through April 1951 the Class I price for any month shall not be lower than in the immediately preceding month."

2. Amend § 965.51 (b) by adding thereto the following: "*Provided*, That from the effective date of this proviso through April 1951 the Class II price for any month shall not be lower than in the immediately preceding month."

3. Amend that portion of § 965.51 (c) which precedes subparagraph (1) thereof to read as follows:

(c) The price for Class III milk during each of the months of March through September shall be the higher of the prices computed pursuant to subparagraphs (1) and (2) of this paragraph; and the price for Class III milk during each of the months of October through February, shall be the higher of the prices computed pursuant to subparagraphs (1) and (2) of this paragraph, plus 30 cents.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Issued at Washington, D. C., this 27th day of March 1951, to be effective on and after the 1st day of April 1951.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 51-3886; Filed, Mar. 29, 1951; 8:57 a. m.]

PART 968—MILK IN THE WICHITA, KANSAS, MARKETING AREA

ORDER AMENDING ORDER, AS AMENDED, REGULATING HANDLING

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968.0 Findings and determinations.

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AUTHORITY: §§ 968.0 to 968.110 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c.

§ 968.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Wichita, Kansas, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supplies of and demand for milk in the said marketing area, and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary, in the public interest, to make this order amending the order, as amended, effective not later than April 1, 1951, so as to reflect current marketing conditions. Any delay beyond April 1, 1951, in the effective date of this order amending the order, as amended, will seriously impair the orderly marketing of milk in the Wichita, Kansas, marketing area. The provisions of the said order are well known to handlers, the public hearing having been held October 24, 1950, and the decisions of the Secretary having been issued on March 14, 1951. Therefore, reasonable time, under the circumstances, has been afforded persons affected to prepare for its effective date. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order, as amended, effective April 1, 1951, and that it would be impracticable, unnecessary, and contrary to the public interest to delay the effective date of this order 30 days after its publication in the FEDERAL REGISTER (sec. 4 (c) Administrative Procedure Act, Public Law 404, 79th Congress, 60 Stat. 237; 5 U. S. C. 1001 et seq.).

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the milk covered by this order amending the order, as amended) of more than 50 percent of the volume of milk covered by the aforesaid order, as amended, and as hereby further amended, which is marketed within the Wichita, Kansas, marketing area, refused or failed to sign the marketing agreement regulating the handling of milk in the said marketing area, and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order amending the order, as amended, is the only practical means, pursuant to the declared policy of the act, of advancing the interests of the producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order amending the order, as amended, is approved or favored by at least two-thirds of the producers who, during the representative period (January 1951), were engaged in the production of milk for sale in the said marketing area.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Wichita, Kansas, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, and the aforesaid order, as amended, is hereby further amended to read as follows:

DEFINITIONS

§ 968.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended.

§ 968.2 *Secretary.* "Secretary" means the Secretary of Agriculture or any officer or employee of the United States who is authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

§ 968.3 *Wichita, Kansas, marketing area.* "Wichita, Kansas, marketing area" means all the territory within the corporate limits of the city of Wichita, Kansas, and the territory within Delano, Kechi, Minneha, Riverside, Waco, and Wichita Townships and the city of Eastborough, all in Sedgwick County, Kansas.

§ 968.4 *Person.* "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 968.5 *Approved dairy farmer.* "Approved dairy farmer" means any person who holds a currently valid permit issued by the Health Department of the City of Wichita for the production of milk to be disposed of as Grade "A" milk.

§ 968.6 *Producer.* "Producer" means any approved dairy farmer, other than a producer-handler, whose milk is received at a pool plant or is diverted from a pool plant by the handler who operates such pool plant, or by a cooperative association, to a plant which is not a pool plant for the account of such handler or cooperative association.

§ 968.7 *Approved plant.* "Approved plant" means any plant approved by the health authorities of the city of Wichita, Kansas, for the handling of milk to be disposed of for fluid consumption as milk in the marketing area and currently used for any or all the functions of receiving, weighing (or measuring), sampling, cooling, pasteurizing or other preparation of milk for sale or disposition as milk or cream for fluid consumption in the marketing area.

§ 968.8 *Pool plant.* "Pool plant" means any approved plant other than that of a producer-handler, (a) during any delivery period of January, February, July, August, September, October, November, or December within which such plant disposes of as Class I or Class II milk in the marketing area, an amount of milk equal to 15 percent or more of such plant's receipts of milk from approved dairy farmers, and (b) during each of the delivery periods of March, April, May, and June, if during the preceding delivery periods of August, September, October, and November such plant (1) was a pool plant during each such delivery period, and (2) disposed of as Class I and Class II milk in the marketing area a total amount of milk equal to 50 percent or more of such plant's total receipts of milk from approved dairy farmers during such delivery periods: *Provided,* That an approved plant which was not an approved plant during each of the preceding delivery periods of August, September, October, and November shall be a pool plant during any of the delivery periods of March, April, May, and June within which such plant disposes of as Class I and Class II milk in the marketing area an amount of milk equal to 40 percent or more of such plant's receipts of milk from approved dairy farmers.

For the purposes of this definition, the following shall apply:

(1) Milk diverted from an approved plant for the account of the handler operating such approved plant shall be considered a receipt at the approved plant from which it was diverted; and

(2) Milk diverted from an approved plant to an unapproved plant for the account of a cooperative association which does not operate a plant shall be deemed to have been received by such cooperative association at a pool plant.

§ 968.9 *Handler.* "Handler" means any person who, on his own behalf or on behalf of others, disposes of as Class I or Class II milk in the marketing area all or a portion of the milk purchased or received by him at an approved plant from (a) approved dairy farmers, (b) his own production, and (c) other handlers. This definition shall include a cooperative association with respect to milk which it causes to be delivered from a producer to a plant from which no milk is disposed of as Class I milk or as Class II milk in the marketing area.

§ 968.10 *Cooperative association.* "Cooperative association" means any cooperative association of producers which the Secretary determines (a) to have its entire activities under the control of its members, and (b) to have and to be exercising full authority in the sale of milk of its members.

§ 968.11 *Producer-handler.* "Producer-handler" means any approved dairy farmer who operates an approved plant, but who receives no milk from other approved dairy farmers.

§ 968.12 *Delivery period.* "Delivery period" means the then current marketing period from the first to, and including, the last day of each month.

§ 968.13 *Milk product.* "Milk product" means any product manufactured from milk or milk ingredients except products which fall within the definition of Class III milk pursuant to paragraph (c) of § 968.41 and which are disposed of in the form in which received without further processing or packaging by the handler.

§ 968.14 *Market administrator.* "Market administrator" means the person designated pursuant to § 968.20 as the agency for the administration of this part.

MARKET ADMINISTRATOR

§ 968.20 *Designation.* The agency for the administration of this part shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at, the discretion of the Secretary.

§ 968.21 *Powers.* The market administrator shall:

(a) Administer the terms and provisions of this part, and

(b) Report to the Secretary complaints of violations of the provisions of this part.

§ 968.22 *Duties.* The market administrator shall:

(a) Within 45 days following the date upon which he enters upon his duties execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in the amount and with surety thereon satisfactory to the Secretary;

(b) Pay out of the funds provided by § 968.88 the cost of his bond, his own compensation, and all other expenses necessarily incurred by him in the maintenance and functioning of his office;

(c) Keep such books and records as will clearly reflect the transactions provided for in this part and surrender the same to his successor or to such other person as the Secretary may designate;

(d) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who within 10 days after the date upon which he is required to perform such acts, has not (1) made reports pursuant to §§ 968.30 through 968.32 or (2) made payments pursuant to §§ 968.80 through 968.86; and

(e) Promptly verify the information contained in the reports submitted by handlers.

REPORTS, RECORDS AND FACILITIES

§ 968.30 *Periodic reports.* On or before the 7th day after the end of each delivery period each handler, except a producer-handler, shall, with respect to milk or milk products which were purchased, received, or produced by such handler during such delivery period, report to the market administrator in the detail and form prescribed by the market administrator, as follows:

(a) The receipts at each plant of milk from each producer or approved dairy farmer, the butterfat content, and the number of days on which milk was received from each producer;

(b) The receipts of milk, cream, and milk products from handlers who purchase or receive milk from producers or approved dairy farmers and the butterfat content;

(c) The receipts of milk, cream, and milk products from any other source and the butterfat content;

(d) The respective quantities of milk and milk products and the butterfat content which were sold, distributed or used, including sales to other handlers for the purpose of classification pursuant to § 968.40; and

(e) Such other information with respect to the use of the milk as the market administrator may request, including a separate statement of Class I and Class II milk disposed of within the marketing area.

§ 968.31 *Reports of payments.* On or before the 20th day after the end of each delivery period, upon the request of the market administrator, each handler who purchased or received milk from producers or approved dairy farmers shall submit to the market administrator his producer payroll for such delivery period which shall show for each producer and each approved dairy farmer: (a) His total deliveries of base milk and total deliveries of milk in excess of base milk, (b) the average butterfat content of his milk, and (c) the net amount of such handler's payments to such producer or approved dairy farmer with the prices, deductions, and charges involved.

§ 968.32 *Reports of producer-handlers.* Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall require.

§ 968.33 *Verification of reports and payments.* The market administrator shall verify all reports and payments of each handler by audit of such handler's records and of the records of any other handler or person upon whose disposition of milk the classification depends. Each handler shall keep adequate records of receipts and utilization of milk and milk products and shall, during the usual hours of business, make available to the market administrator or his representative such records and facilities as will enable the market administrator to:

(a) Verify the receipts and disposition of all milk and milk products, and in case of errors or omissions, ascertain the correct figures;

(b) Weigh, sample, and test for butterfat content the milk purchased or received from producers and any product of milk upon which classification depends; and

(c) Verify the payments to producers prescribed in § 968.80.

§ 968.34 *Retention of records.* All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided,* That if, within such three-year periods, the market administrator notifies the handler in writing that the re-

tention of such books and records, or specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly, upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 968.40 *Basis of classification.* All milk and milk products purchased, received or produced by each handler, including milk of a producer which a cooperative association causes to be delivered to a plant from which no milk is disposed of in the marketing area, shall be reported by the handler in the classes set forth in § 968.41 subject to the following conditions:

(a) Except as provided in paragraph (c) of this section, milk, skim milk, or cream moved in fluid form from an approved plant to an unapproved plant located more than 100 miles from the approved plant, shall be Class I if moved in the form of milk or skim milk, and Class II if moved in the form of cream.

(b) Except as provided in paragraph (c) of this section, milk, skim milk, or cream moved in fluid form from an approved plant to an unapproved plant located not more than 100 miles from the approved plant and from which fluid milk and cream are distributed, shall be Class I if moved in the form of milk or skim milk and Class II if moved in the form of cream, unless the purchaser certifies that the market administrator may verify his records. If the market administrator is permitted to verify the necessary records such milk, skim milk, or cream, shall be classified as follows: (1) Determine the classification of all milk received in the unapproved plant, and (2) allocate the milk, skim milk, or cream received from the approved plant to the highest use classification remaining after subtracting in series beginning with the highest use classification, the receipts of milk at such unapproved plant directly from dairy farmers who the market administrator determines constitute its regular source of milk for Class I and Class II use.

(c) Milk, skim milk, or cream, which is moved to an unapproved plant from an approved plant which regularly receives type C milk, and which is sold as "type C milk for manufacturing only" and is so tagged or labeled, may be classified as Class III milk up to the extent of the receipt of type C milk at the approved plant.

(d) Except as provided in paragraph (a) of this section, milk, skim milk, or cream, moved from an approved plant to an unapproved plant which does not distribute fluid milk or cream shall be classified as Class III milk.

(e) Milk or skim milk sold or disposed of by a handler who purchases or receives milk from producers to another handler shall be classified as Class I milk: *Provided*, That if such milk or skim milk, except milk or skim milk sold or disposed of by such handler to a producer-handler, is reported by the receiving handler or by the disposing handler as having been utilized as Class II milk or Class III milk, it shall be classified accordingly but in no event shall the amount classified in any class exceed the total use in such class by the receiving handler.

(f) Cream sold or disposed of as fluid cream by a handler who purchases or receives milk from producers to another handler shall be classified as Class II milk: *Provided*, That if such cream, except cream sold or disposed of by such handler to a producer-handler, is reported by the receiving handler or by the disposing handler as having been utilized as Class III milk, such cream shall be classified accordingly but in no event shall the amount classified in any class exceed the total use in such class by the receiving handler.

(g) Milk, skim milk, or cream sold or disposed of by a producer-handler to another handler who receives milk from producers shall be classified in the lowest use classification of the purchasing handler.

§ 968.41 *Classes of utilization.* Subject to the conditions set forth in § 968.40 the classes of utilization shall be as follows:

(a) Class I milk shall be all milk and skim milk disposed of for consumption as milk, skim milk, buttermilk, flavored milk and milk drinks, and all milk not classified as Class II milk or Class III pursuant to paragraphs (b) and (c) of this section.

(b) Class II milk shall be all milk used to produce cream which is disposed of in the form of cream (other than for use in products specified in paragraph (c) of this section), cottage cheese, products sold or disposed of in the form of cream testing less than 18 percent butterfat, aerated cream, and eggnog.

(c) Class III milk shall be all milk, used to produce butter, cheese (other than cottage cheese), evaporated milk, ice cream, ice cream mix and powdered milk; disposed of as livestock feed; used for starter churning, wholesale baking and candy making purposes; the milk equivalent of butterfat accounted for as loss in products where the salvage of fat is impossible; and the milk equivalent of unaccounted for butterfat not in excess of 3 percent of the total receipts of butterfat other than receipts from other handlers: *Provided*, That for the purpose of establishing such total receipts of butterfat, butterfat in milk diverted directly from producer's farms to another handler shall be included as receipts of the handler to whom such milk was diverted, and excluded from receipts of the diverting handler.

§ 968.42 *Responsibility of handlers in establishing the classification of milk.* In establishing the classification as required in § 968.41 of any milk received by a handler from producers, the burden rests upon the handler who receives the milk from producers to account for the milk and to prove to the market administrator that such milk should not be classified as Class I milk.

§ 968.43 *Computation of milk in each class.* For each delivery period each handler shall compute, in the manner and on forms prescribed by the market administrator, the amount of milk in each class as defined in § 968.41 as follows:

(a) Determine the total pounds of milk received as follows: Add together total pounds of milk received at approved plants from (1) producers, (2) other handlers, and (3) other sources.

(b) Determine the total pounds of butterfat received as follows: (1) Multiply by its average butterfat test the weight of the milk received at approved plants from (i) producers, (ii) other handlers, and (iii) other sources, and (2) add together the resulting amounts.

(c) Determine the total pounds of milk in Class I as follows: (1) Convert to pounds the quantity of Class I milk on the basis of 2.15 pounds per quart, and subtract the weight of any flavoring materials included, (2) multiply the result by the average butterfat test of such milk, and (3) if the quantity of butterfat so computed when added to the pounds of butterfat in Class II milk and Class III milk, computed pursuant to paragraphs (d) (2) and (e) (4) of this section is less than the total pounds of butterfat received computed in accordance with paragraph (b) of this section, an amount equal to the difference shall be divided by 3.8 percent and added to the quantity of milk determined pursuant to subparagraph (1) of this paragraph.

(d) Determine the total pounds of milk in Class II as follows: (1) Multiply the actual weight of each of the several products of Class II milk by its average butterfat test, (2) add together the resulting amounts, and (3) divide the result obtained in subparagraph (2) of this paragraph by 3.8 percent.

(e) Determine the total pounds of milk in Class III as follows: (1) Multiply the actual weight of each of the several products of Class III by its average butterfat test, (2) add together the resulting amounts, (3) subtract from the total pounds of butterfat computed pursuant to paragraph (b) of this section the total pounds of butterfat in Class I milk, computed pursuant to paragraph (c) (2) of this section, the total pounds of butterfat in Class II milk, computed pursuant to paragraph (d) (2) of this section and the total pounds of butterfat computed pursuant to subparagraph (2) of this paragraph which resulting quantity shall be allowed as plant shrinkage for the purposes of this paragraph (but in no event shall such plant shrinkage allowance exceed 3 percent of the total receipts as specified in § 968.41 (c) of butterfat other than receipts from other handlers, (4) add together the results obtained in subparagraphs (2) and (3) of this paragraph, and (5) divide the results obtained in subparagraph (4) of this paragraph by 3.8 percent.

§ 968.44 *Allocation of milk classified.* Determine the classification of milk received from producers as follows:

(a) Subtract from the total pounds of milk in each class the pounds of milk which were received from other handlers and used in each class.

(b) Subtract from the remaining pounds of milk in each class the pounds of milk which were received from sources other than producers, and other handlers in series beginning with the lowest class.

§ 968.45 *Reconciliation of utilization of milk by classes with receipts of milk from producers.* In the event of a difference between the total quantity of milk used in the several classes as computed pursuant to § 968.44 and the quantity of milk received from producers, except for excess milk or milk equivalent of butterfat pursuant to § 968.62, such difference shall be reconciled as follows:

(a) If the total utilization of milk in the various classes for any handler, as computed pursuant to § 968.44, is less than the receipts of milk from producers, the market administrator shall increase the total pounds of milk in Class III for such handler by an amount equal to the difference between the receipts of milk from producers and the total utilization of milk by classes for such handler.

(b) If the total utilization of milk in the various classes for any handler, as computed pursuant to § 968.44, is greater than the receipts of milk from producers, the market administrator shall decrease the total pounds of milk in Class III for such handler by an amount equal to the difference between the receipts from producers and the total utilization of milk by classes for such handler.

MINIMUM PRICES

§ 968.50 *Class prices.* Each handler shall pay at the time and in the manner set forth in this part not less than the following prices per hundredweight of milk received during each delivery period from producers:

(a) *Class I milk.* The price per hundredweight shall be the price determined pursuant to § 968.51 plus $1.00 during the months of April, May, and June of each year, and plus $1.45 during the remaining months of each year.

(b) *Class II milk.* The price per hundredweight shall be the price determined pursuant to § 968.51 plus 75 cents during the months of April, May, and June of each year and plus $1.20 during the remaining months of each year.

(c) *Class III milk.* The price per hundredweight shall be the average of the prices paid during each delivery period for ungraded milk containing 3.8 percent butterfat at the following plants now operated by the listed companies: at Wichita, Kansas, by the DeCoursey Cream Company; at Blackwell, Oklahoma, by Wilson and Company; and at Arkansas City, Kansas, by the Arkansas City Cooperative Milk Association, but in no event shall the price be less than that paid at the plant at Wichita, Kansas, operated by the DeCoursey Cream Company.

§ 968.51 *Basic formula price to be used in determining Class I and Class II prices.* The basic formula price to be used in determining the Class I and Class II prices set forth in § 968.50 shall be the average of the basic or field prices ascertained to have been paid for milk of 3.5 percent butterfat content received during the immediately preceding delivery period at the following places for which prices are reported to the market administrator by the listed companies or by the United States Department of Agriculture (or by such other Federal agency as may be authorized to perform this price reporting function):

Companies and Locations

Borden Co., Mount Pleasant, Mich.
Carnation Co., Sparta, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopersville, Mich.
Borden Co., Greenville, Wis.
Borden Co., Black Creek, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Jefferson, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Belleville, Wis.
Borden Co., New London, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

divided by 3.5 and mutiplied by 3.8 but in no event shall such basic price be less than the following: multiply by 3.8 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture (or such other Federal agency as may be authorized to perform this price reporting function) for the immediately preceding delivery period, and add 20 percent: *Provided,* That such price shall be subject to the following adjustments: (a) add 3½ cents per hundredweight for each full one-half cent that the price of nonfat dry milk solids for human consumption is above 5½ cents per pound or (b) subtract 3½ cents per hundredweight for each full one-half cent that the price of such nonfat dry milk solids is below 5½ cents per pound. For purposes of determining this adjustment, the price of nonfat dry milk solids to be used shall be the average of carlot prices for nonfat dry milk solids for human consumption, f. o. b. manufacturing plant, as published by the United States Department of Agriculture (or such other Federal agency as may be authorized to perform this price reporting function) for the Chicago area during the immediately preceding delivery period, including in such average the quotations published for any fractional part of the previous delivery period which were not published and available for the price determination of such nonfat dry milk solids for the previous delivery period. In the event the United States Department of Agriculture (or such other Federal agency as may be authorized to perform this price reporting function) does not publish carlot prices for nonfat dry milk solids for human consumption, f. o. b. manufacturing plants, the average of the carlot prices for nonfat dry milk solids for human consumption, delivered at Chicago, shall be used. In the latter event, such price shall be subject to the following adjustments: (1) Add 3½ cents per hundredweight for each full one-half cent that the price of nonfat dry milk solids for human consumption, delivered at Chicago, is above 7½ cents per pound, or (2) subtract 3½ per cents per hundredweight for each full one-half cent that such price of nonfat dry milk solids is below 7½ cents per pound.

§ 968.52 *Emergency provisions.* (a) Whenever the provisions of this part require the market administrator to use a specific price (or prices) for milk or any milk product for the purpose of determining class prices or for any other purpose, the market administrator shall add to the specified price the amount of any subsidy or other similar payments being made in connection with the milk or product associated with the price specified: *Provided,* That if for any reason the price specified is not reported or published as indicated, the market administrator shall use the applicable maximum uniform price established by regulations of any Federal agency plus the amount of any such subsidy or other similar payment: *Provided further,* That if the specified price is not reported or published and the Secretary determines that the market price is below the applicable maximum uniform price, the market administrator shall use a price determined by the Secretary to be equivalent to or comparable with the price specified.

(b) Whenever the Secretary finds and announces that the Class I and Class II prices computed for any delivery period pursuant to § 968.50 are not in the public interest, the Class I and Class II prices for such delivery period shall be the same as the Class I and Class II prices for the previous delivery period.

APPLICATION OF PROVISIONS

§ 968.60 *Producer-handlers.* Sections 968.40 through 968.45, 968.50 through 968.52, 968.61 through 968.63, 968.70, 968.71, 968.80 through 968.88, shall not apply to a producer-handler.

§ 968.61 *Other source milk.* If a handler has purchased or received milk or butterfat from a producer-handler, or from sources other than from producers or other handlers, and has sold or disposed of such milk for other than Class III purposes, the market administrator, in determining the net pool obligation of the handler pursuant to § 968.70, shall add an amount equal to the difference between (a) the value of such milk or the milk equivalent of such butterfat according to its utilization by the handler and (b) the value at the Class III price. The provisions of this section shall not apply if the handler can prove to the market administrator that such milk or butterfat was used only to the extent that milk of producers was not available, either directly from producers or at the plant of another handler at the class prices provided pursuant to § 968.50 (a) and (b).

§ 968.62 *Excess milk.* If a handler, after subtracting receipts from other handlers, and receipts from sources determined as other than producers, or other handlers, has disposed of milk or butterfat in excess of the milk or butterfat which, on the basis of his reports,

has been credited to his producers as having been delivered by them, the market administrator, in determining the net pool obligation of the handler, pursuant to § 968.70, shall add an amount equal to the value of such milk or butterfat according to its utilization by the handler.

§ 968.63 *Handler operating an approved plant which is not a pool plant.* Each handler who operates an approved plant which is not a pool plant during a delivery period, shall in lieu of the payments required pursuant to §§ 968.80 through 968.85, pay to the market administrator, for the producer-settlement fund, on or before the 25th day after the end of such delivery period, the amount resulting from the computations of either paragraph (a) or paragraph (b) of this section, whichever is less.

(a) The sum of (1) the product of the quantity of milk received by such handler which was disposed of in the marketing area as Class I milk during the delivery period multiplied by the difference between the price for Class I milk pursuant to § 968.50 (c), and (2) the product of the quantity of milk received by such handler which was disposed of in the marketing area as Class II milk during the delivery period multiplied by the difference between the price for Class II milk pursuant to § 968.50 (b) and the price for Class III milk pursuant to § 968.50 (c).

(b) Any plus amount resulting from the following computation:

(1) To an amount equal to the net pool obligation which would be computed pursuant to § 968.70 for such handler for such delivery period if such handler operated a pool plant, add for each one-tenth by which the average butterfat content of milk received from approved dairy farmers by such handler is greater than 3.8 percent, or subtract for each one-tenth percent that such average butterfat content is less than 3.8 percent, an amount computed by multiplying the butterfat differential computed pursuant to § 968.82 by the total hundredweight of such milk; and

(2) Deduct the gross payments made by such handler to approved dairy farmers for milk received during such delivery period.

DETERMINATION OF UNIFORM PRICE TO PRODUCERS

§ 968.70 *Net pool obligations of handlers.* The net pool obligation of each handler for milk received from producers during each delivery period shall be a sum of money computed for such delivery period by the market administrator as follows: Multiply the pounds of milk in each class computed pursuant to § 968.44 by the class price pursuant to § 968.50, add together the resulting values, and add the value of any payments required to be made pursuant to §§ 968.61 and 968.62.

§ 968.71 *Computation and announcement of uniform prices.* For each delivery period the market administrator shall compute and announce the uniform prices per hundredweight for base milk and excess milk as follows:

(a) Combine into one total the net pool obligations of all handlers computed pursuant to § 968.70 who made the reports prescribed by § 968.30 for such delivery period and who made the payments prescribed by §§ 968.80 and 968.84 for the preceding delivery period;

(b) Add an amount equal to one-half of the cash balance in the producer-settlement fund less the amount due handlers pursuant to § 968.86;

(c) Compute the total value of the milk included in these computations which is in excess of the delivered base of producers by assigning such milk first to Class III milk and then to each succeeding higher classification until all such milk has been classified, and then multiplying the total pounds of excess milk assigned to each class by the appropriate class price and adding together the resulting amounts;

(d) Divide the total value of excess milk obtained in paragraph (c) of this section by the total hundredweight of such milk and round to the nearest cent. This result shall be known as the uniform price for excess milk of 3.8 percent butterfat;

(e) Subtract the value of excess milk obtained in paragraph (c) of this section from the value of all milk obtained in paragraph (b) of this section and adjust by any amount involved in rounding the uniform price for excess milk to the nearest cent;

(f) Divide the result obtained in paragraph (e) of this section by the total hundredweight of milk represented by the delivered bases of producers;

(g) Subtract not less than 4 cents nor more than 5 cents; the result shall be known as the uniform price per hundredweight for such delivery period for base milk of producers containing 3.8 percent butterfat.

PAYMENTS

§ 968.80 *Time and method of payment.* On or before the 12th day after the end of each delivery period each handler shall make payment, after deducting the amount of the payment made pursuant to § 968.81, subject to the butterfat differential set forth in § 968.82 for milk purchased or received from producers by such handler during each delivery period as follows:

(a) To each producer, except as set forth in paragraph (c) of this section, not less than the uniform price per hundredweight computed pursuant to § 968.71 (g) for that quantity of milk received from such producer not in excess of such producer's base;

(b) To each producer, except as set forth in paragraph (c) of this section, not less than the excess price, computed pursuant to § 968.71 (d), for that quantity of milk received from such producer in excess of such producer's base; and

(c) To a cooperative association for milk which it caused to be delivered to a handler from producers and for which such cooperative association collects payments, a total amount equal to not less than the sum of the individual payments otherwise payable to such producers under paragraphs (a) and (b) of this section.

§ 968.81 *Half delivery period payments.* On or before the 27th day of each delivery period, each handler shall make payment to each producer for the approximate value of the milk of such producer which, during the first 15 days of such delivery period, was received by such handler.

§ 968.82 *Butterfat differential.* If, during the delivery period, any handler has purchased or received from any producer milk having an average butterfat content other than 3.8 percent, such handler in making the payments prescribed in § 968.80 shall add to the prices per hundredweight for such producers for each one-tenth of 1 percent of average butterfat content in milk above 3.8 percent not less than, or shall subtract from such prices for such producer for each one-tenth of 1 percent of average butterfat content in milk below 3.8 percent not more than, an amount computed as follows: to the average price of 92-score butter at wholesale in the Chicago market as reported by the United States Department of Agriculture (or such other Federal agency as may hereinafter be authorized to perform this price reporting function) for the delivery period during which such milk was received, add 20 percent and divide the resulting sum by 10.

§ 968.83 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 968.84, 968.86 and 968.63, and out of which he shall make all payments to handlers pursuant to §§ 968.85 and 968.86: *Provided,* That the market administrator shall offset any such payment due to any handler against payments due from such handler. Immediately after computing the uniform price for each delivery period, the market administrator shall compute the amount by which each handler's net pool obligation, including the payments to producers which are required to be made pursuant to §§ 968.61 and 968.62, is greater or less than the sum obtained by multiplying the hundredweight of milk of producers by the appropriate prices required to be paid producers by handlers pursuant to § 968.80 and adding together the resulting amounts, and shall enter such amount on each handler's account as such handler's pool debit or credit, as the case may be, and render such handler a transcript of his account.

§ 968.84 *Payments to the producer-settlement fund.* On or before the 12th day after the end of each delivery period, each handler shall pay to the market administrator for payment to producers through the producer-settlement fund, the amount by which the net pool obligation of such handler including the payments required to be made pursuant to §§ 968.61 and 968.62 is greater than the sum required to be paid producers by such handler pursuant to §§ 968.80 and 968.81.

§ 968.85 *Payments out of the producer-settlement fund.* (a) On or be-

fore the 12th day after the end of each delivery period, the market administrator shall pay to each handler for payment to producers the amount by which the sum required to be paid producers by such handler pursuant to §§ 968.80 and 968.81 is greater than the net pool obligation of such handler, including the payments required to be made pursuant to §§ 968.61 and 968.62.

(b) If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. No handler who, on the 12th day after the end of the delivery period, has not received the balance of such reduced payment from the market administrator, shall be deemed to be in violation of § 968.80 if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund.

§ 968.86 *Adjustment of errors in payments.* Whenever verification by the market administrator of reports or payments of any handler discloses errors in payments to the producer-settlement fund made pursuant to § 968.84, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 5 days of such billing, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler pursuant to § 968.85, the market administrator shall, within 5 days make payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer discloses payment to such producer of an amount which is less than is required by this section, the handler shall make up such payment to the producer not later than the time of making payment to producers next following the disclosure.

§ 968.87 *Marketing services.*—(a) *Deductions from marketing services.* Except as set forth in paragraph (b) of this section, each handler shall deduct 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, from the payments made to each producer other than himself pursuant to § 968.80 (a) and (b) with respect to all milk of such producer purchased or received by such handler during the delivery period and shall pay such deductions to the market administrator on or before the 12th day after the end of such delivery period. Such moneys shall be used by the market administrator to verify weights, samples and tests of milk received from, and to provide market information to such producers. The market administrator may contract with a cooperative association or cooperative associations for the furnishing of the whole or any part of such services.

(b) *Deductions with respect to members of a cooperative association.* In the case of producers for whom a cooperative association which the Secretary determines to be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make the deductions from the payments to be made directly to producers pursuant to § 968.80 (a) and (b) which are authorized by such producers, and, on or before the 12th day after the end of each delivery period, pay over such deductions to the association of which such producers are members.

§ 968.88 *Expense of administration.* As his pro rata share of the expense of the administration of this part, each handler who purchased or received milk from producers, with respect to all milk received from approved dairy farmers during the delivery period, shall pay to the market administrator, on or before the 10th day after the end of such delivery period, an amount not exceeding 4 cents per hundredweight, which amount shall be determined by the market administrator subject to review by the Secretary.

§ 968.89 *Termination of obligation.* The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representative all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money

BASE RATING

§ 968.90 *Determination of period base.* For each delivery period the base of each producer shall be a quantity of milk calculated by the market administrator in the following manner: Multiply the applicable figure computed pursuant to § 968.91 by the number of days during such delivery period on which milk was received from such producer.

§ 968.91 *Determination of daily base.* (a) Effective January 1, 1948, and for each subsequent year thereafter the daily base of each producer, who regularly delivered milk to a handler during the next previous delivery periods of August, September, October, and November shall be computed by the market administrator in the following manner: Determine for each such producer his average daily delivery of milk to a handler for the time he delivered during the period from the next previous August 1 to November 30.

(b) The daily base of each producer who did not regularly deliver milk to a handler during the next previous delivery periods of August, September, October, and November but who began deliveries of milk to a handler subsequent to August 31 shall be computed by the market administrator in the following manner: For each delivery period from the date upon which the producer first delivers milk to a handler until January 1 after he shall have established a base pursuant to paragraph (a) of this section, the market administrator shall multiply such producer's daily average deliveries of milk during such period by the percentage that total base deliveries are to total deliveries of all producers.

(c) In case of a producer-handler who disposes of all of his delivery routes to another handler who is not a producer, the market administrator shall determine the daily average of the total sales of Class I milk and Class II milk by such producer during the preceding three months. The figures so determined shall be such producer's base until his base may be established pursuant to paragraph (a) of this section.

§ 968.92 *Base rules.* (a) Any producer who ceases to deliver milk to a handler for a period of more than 30 consecutive days shall forfeit his base.

In the event such producer thereafter commences to deliver milk to a handler he shall be allotted a daily base computed in the manner provided in § 968.91.

(b) A landlord who rents on a share basis shall be entitled to the entire daily base to the exclusion of the tenant if the landlord owns the entire herd. A tenant who rents on a share basis shall be entitled to the entire daily base to the exclusion of the landlord if the tenant owns the entire herd. If the cattle are jointly owned by the tenant and landlord, the daily base shall be divided between the joint owners according to ownership of the cattle when such share basis is terminated.

(c) A producer, whether landlord or tenant, may retain his base when moving his entire herd of cows from one farm to another: *Provided*, That at the beginning of a tenant and landlord relationship the base of each landlord and tenant may be combined and may be divided when such relationship is terminated.

(d) Base may be transferred only under the following conditions: (1) In case of the death of a producer, his base may be transferred to a surviving member or members of his family who carry on the dairy operations, and (2) on the retirement of a producer, his base may be transferred to an immediate member of his family who carries on the dairy operations.

(e) The base of two producers may be combined in the case of forming a partnership, or may be divided in the case of the dissolution of a partnership.

(f) For the purposes of this section only, the term "producer" shall include any person who has been a producer as defined in § 968.6 but whom the Wichita Board of Health has suspended temporarily for failure to produce milk in conformity with the applicable health regulations of the city of Wichita, Kansas.

EFFECTIVE TIME, SUSPENSION, OR TERMINATION

§ 968.100 *Effective time.* The provisions of this part, or any amendment to this part, shall become effective at such time as the Secretary may declare and shall continue in force until suspended, or terminated, pursuant to § 968.101.

§ 968.101 *Suspension or termination.* Any or all of the provisions of this part, or any amendment to this part, may be suspended or terminated as to any or all handlers after such reasonable notice as the Secretary shall give and shall, in any event, terminate whenever the provisions of the act cease to be in effect.

§ 968.102 *Continuing power and duty of the market administrator.* (a) If, upon the suspension or termination of any or all provisions of this part there are any obligations arising under this part the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided*, That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(b) The market administrator, or such other person as the Secretary may designate, shall (1) continue in such capacity until removed, (2) from time to time account for all receipts and disbursements and when so directed by the Secretary deliver all funds on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct, and (3) if so directed by the Secretary execute assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

§ 968.103 *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions of this part the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

AGENTS

§ 968.110 *Agents.* The Secretary may, by designation in writing name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

Issued at Washington, D. C., this 27th day of March, 1951, to be effective on and after the 1st day of April 1951.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 51-3887; Filed, Mar. 29, 1951; 8:57 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 5787]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

AMERICAN CANDLE CO., INC.

Subpart—*Advertising falsely or misleadingly:* § 3.30 *Composition of goods.* In connection with the offering for sale, sale and distribution of candles in commerce, representing, directly or by implication, that respondent's candles are composed entirely of pure beeswax, when such is not the fact; prohibited.

(Sec. 6, 38 Stat. 722; 15 U. S. C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended, 15 U. S. C. 45) [Cease and desist order, American Candle Company, Inc., Docket 5787, January 2, 1951]

This proceeding was heard by William L. Pack, trial examiner, upon the complaint of the Commission, the answer of the respondent, and a stipulation whereby it was stipulated and agreed that the facts set forth therein might be taken as the facts in the proceeding and in lieu of testimony in support of and in opposition to the charges stated in the complaint, and might serve as the basis for findings as to the facts and conclusion based thereon and order disposing of the proceeding, without presentation of proposed findings and conclusions or oral argument, it being also provided that upon appeal to or review by the Commission said stipulation might be set aside by the Commission and the matter remanded for further proceedings under the complaint.

Thereafter the proceedings regularly came on for final consideration by the trial examiner upon the complaint, answer and stipulation, and said trial examiner, having duly considered the record in said cause, found that said proceeding was in the interest of the public and made his initial decision, comprising certain findings as to the facts, conclusion drawn therefrom and order to cease and desist.

No appeal having been filed from said initial decision of said trial examiner as provided for in Rule XXII, nor any other action taken as thereby provided to prevent said initial decision becoming the decision of the Commission thirty days from service thereof upon the parties, said initial decision, including said order to cease and desist, accordingly, under the provisions of said Rule XXII, became the decision of the Commission January 2, 1951.

The said order to cease and desist is as follows:

It is ordered, That the respondent, American Candle Company, Inc., a corporation, and its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of candles in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from: Representing, directly or by implication, that respondent's candles are composed entirely of pure beeswax, when such is not the fact.

By "Decision of the Commission and Order to File Report of Compliance", Docket 5787, January 2, 1951, which announced fruition of said initial decision on said date, report of compliance with the order was required as follows:

It is ordered, That the respondent, American Candle Company, Inc., shall, within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with the order to cease and desist.

Issued: January 2, 1951.

By the Commission.

[SEAL] D. C. DANIEL,
Secretary.

[F. R. Doc. 51-3850; Filed, Mar. 29, 1951; 8:47 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

Subchapter J—Procurement Procedures

PART 1000—GENERAL PROVISIONS

PART 1001—PROCUREMENT BY FORMAL ADVERTISING

PART 1002—PROCUREMENT BY NEGOTIATION

MISCELLANEOUS AMENDMENTS

1. Paragraphs (a) and (b) of § 1000.201 are amended to read as follows:

§ 1000.201 *Definitions*—(a) *Procuring activity.* The term "procuring activity" as used in §§ 400.201–3 and other sections of Subchapter A, Chapter IV of this title and this subchapter means the Air Matériel Command. The Air Matériel Command has been designated as the sole "procuring activity" within the Department of the Air Force.

(b) *Head of a procuring activity.* The term "head of a procuring activity" as used in §§ 400.201–4 and other sections of Subchapter A, Chapter IV of this title and this subchapter means the Commanding General, Air Matériel Command, who has been designated as the sole "head of a procuring activity" within the Department of the Air Force.

* * * * *

2. Section 1000.300 is added as follows:

§ 1000.300 *Methods of procurement.* Notwithstanding the provisions of § 400.301 of this title, during the period of the National Emergency declared by the President on December 16, 1950, the Assistant Secretary of the Air Force has authorized the negotiation of all purchases and contracts under section 2 (c) (1) of the Armed Services Procurement Act of 1947 (sec. 2 (c) (1), 62 Stat. 21; 41 U. S. C., Sup., 151). Procurement may continue to be effected by formal advertising only when time permits and delivery requirements are not jeopardized by such action. (See §§ 1001.102 and 1002.201.)

3. Section 1000.309 is added as follows:

§ 1000.309 *Classified procurements; check list.* Department of Defense Form 254, "Security Requirements Check List" will be used in precontract negotiations when applicable for procurements by formal advertising and by negotiation, when contractors and subcontractors must have access to classified matter. This form will be prepared in accordance with the instructions thereon and will accompany all contracts and subcontracts classified top secret, secret, confidential, or restricted, and all contracts and subcontracts involving access to classified matter by a contractor or subcontractor. In addition to the initial completion of the form, necessary changes in security classification will be made as appropriate and will be reflected on the form when down-grading action is taken in compliance with applicable regulations. This form shall not be considered a part of the contract but shall be used to implement the "Military Security Requirements Clause" and any secrecy agreement which may be existent.

4. Section 1000.310 is added as follows:

§ 1000.310 *Unauthorized release of procurement information.* All personnel of the Air Force, both military and civilian, are responsible for refraining from releasing to individual business concerns or their representatives any preknowledge such personnel may possess or have acquired in any way concerning procurements or purchases of supplies by any procuring activity of the Air Force. Such information will be released to all potential contractors at the same time, as far as possible, and only through duly designated agencies, so that one potential contractor may not be given an unfair advantage over another.

5. Section 1000.312 is added as follows:

§ 1000.312 *FOB point.* Unless there are valid reasons to the contrary (such as, but not restricted to industry practice, or destination unknown) all supply contracts shall provide for delivery as follows:

(a) When it is estimated that no shipment to a single destination will equal a minimum carload lot (a minimum carload lot shall be deemed to weigh approximately 20,000 pounds) delivery shall be made on the basis of all transportation charges paid to destination (within the Continental United States).

(b) When it is estimated that any single contract will require a shipment of minimum carload lot, delivery and acceptance may be either on the basis of f. o. b. plant or on the basis of all transportation charges paid to destination (within the Continental United States), whichever is more advantageous to the Government.

6. Section 1000.313 is added as follows:

§ 1000.313 *Broadening the industrial base of procurement programs.* The following memorandum from the Secretary of Defense, December 18, 1950, is quoted for information and guidance:

Memorandum for
The Secretary of the Army.
The Secretary of the Navy.
The Secretary of the Air Force.
Subject: Broadening the Industrial Base of Procurement Programs.

The President has declared a National Emergency. The issuance of this declaration permits the Secretaries of the Military Departments to authorize the negotiation of purchases and contracts pursuant to the authority contained in section 2 (c) (1) of the Armed Services Procurement Act of 1947. The Munitions Board has recommended, and I have approved, the following statement of policy.

The Military Departments have already received instructions to accelerate procurement actions in connection with 2d Supplemental 1951 Funds. It is essential, in complying with those instructions, that contracts be spread across industry as widely as possible in order to broaden the industrial base of our procurement program. Broadening the base will require wider use of negotiation. Formal advertising will continue to be used in appropriate cases, but not when such use will adversely affect the acceleration of procurement or the broadening of the industrial base contemplated by this directive.

The Military Departments should pay particular attention to:

(a) The greatest possible integration of current procurement contracts with the industrial mobilization program and the accepted schedules of production.

(b) The equitable distribution of procurement contracts among the maximum number of competent suppliers. The concentration of contracts with a few leader suppliers is to be avoided unless the necessity therefor is clear.

(c) The utilization of existing open industrial capacity to the maximum. Expansion of facilities should not be authorized when open capacity can be found. Whenever time permits, and in order to broaden the mobilization base, additional contractors should be utilized in lieu of multi-shift or overtime operation.

(d) The fullest possible use of small business concerns.

(e) The utilization in negotiation of competition and multiple awards, whenever possible.

(f) The aggressive encouragement or requirement of subcontracting by prime contractors.

(g) the provision of maximum incentive of the producer for the reduction of his costs.

(h) The placement of contracts with a view to economies in the use of transportation facilities.

(i) The availability of manpower in distressed employment areas or in areas of manpower shortages.

(j) The reservation of special skills and abilities for the more difficult production tasks.

To the extent necessary, Departmental procurement procedures and practices should be modified to conform to the foregoing. Particular attention should be paid to the caliber of personnel engaged in the negotiation of contracts.

(Signed) G. C. MARSHALL.

7. Section 1000.400 is added as follows:

§ 1000.400 *Secretary.* The Secretary establishes policies for, directs and supervises the Department's activities with respect to procurement and related matters. The General Counsel, as his legal advisor, is the final authority on all legal questions relating thereto. By delegation of authority from the Secretary, policies established by him are implemented and other appropriate instructions are issued to lower echelons by the Chief of Staff, United States Air Force, through the Deputy Chief of Staff, Matériel.

8. Paragraphs (a) and (b) of § 1000.401 are amended to read as follows:

§ 1000.401 *Responsibility of procuring activity*—(a) *Commanding General, Air Matériel Command.* The Commanding General, Air Matériel Command, as sole "head of a procuring activity," is responsible for the procurement of supplies and services assigned to the procurement cognizance of the Department of the Air Force except for the supplies and services assigned to the procurement cognizance of a jointly-staffed and financed procuring activity established under the provision of Part 403 of this title. This responsibility includes the authority to issue appropriate delegations of authority, to impose limitations upon the authority to enter into contracts, and to require such busi-

ness clearance and approval as he may prescribe in procuring activity instructions (Air Force Procurement Instructions). This responsibility and authority extends over all activities of the Air Force, including oversea commands, air attachés, and foreign missions.

(b) *Appointment of contracting officers.* The Commanding General, Air Materiel Command, is authorized to designate, or to direct the designation of, in writing, any qualified officer or civilian official of the Department of the Air Force a contracting officer within the meaning of that term as used throughout Subchapter A, Chapter IV of this title, and this subchapter.

* * * * *

9. Sections 1000.700 to 1000.709 inclusive are rescinded.

[AFP Cir. 1, 1950; AFP Cir's. 1, 2, 3, 1951] (R. S. 161, sec. 202, 61 Stat. 500, as amended; 5 U. S. C. 22 and Sup., 171a. Interpret or apply 62 Stat. 21; 41 U. S. C., Sup., 151–161)

10. Section 1001.102 is amended to read as follows:

§ 1001.102 *Policy.* (a) During the period of the National Emergency declared by the President on December 16, 1950, subject to such instructions as may be issued by the heads of procuring activities, procurement may be effected by formal advertising only when time permits and delivery requirements are not jeopardized by such action.

(b) The policy of the Department of Defense is to make available to both large and small business, the public, the press, and others having a legitimate interest, information concerning invitations for bids, and results of bidding on military procurement entered into after formal advertising. (See §§ 1001.203 and 204.)

CROSS REFERENCE: For Armed Services Procurement Regulation which this section implements, see § 401.102 of this title.

11. Paragraphs (b) (11) and (c) are added to § 1001.201 as follows:

§ 1001.201 *Preparation of forms.* * * *

(b) *Schedule.* * * *

(11) *FOB point.* In furtherance of the policy set forth in § 1000.312 of this subchapter, bids for supplies will be invited as follows:

(i) When it is estimated that no shipment to a single destination will equal a minimum carload lot, bids shall be invited on the basis of delivery by the contractor, all transportation charges paid to destination (within the Continental United States).

(ii) When it is estimated that a single contract (to be awarded) will provide for a shipment to a single destination of a carload lot or more, bids shall be invited as follows:

(*a*) Bid A—all transportation charges paid to destination (within the Continental United States) and

(*b*) Bid B—FOB carriers' equipment, wharf or freight station at a specified city or shipping point.

The invitation for bids will provide that bidders may bid on either or both bases A and B.

(c) *Price revision.* When procurement is effected by formal advertising, price revision articles (as distinguished from escalation articles) will not be inserted in the invitation for bids or in any contract resulting therefrom.

12. Paragraph (d) of § 1001.405 is redesignated paragraph (e), and a new paragraph (d) is substituted as follows:

§ 1001.405 *Awards.* * * *

(d) *Transportation costs.* In connection with bids or proposals submitted on an FOB origin basis, transportation costs between the source of supply and the designated destination point or points will be considered in determining the lowest estimated cost to the Government. To facilitate the evaluation of bids and proposals and to assure accurate analyses, contracting officers will request the advisory services of local transportation officers to assist in determining the lowest possible transportation costs to a given point.

(e) *Authority and procedures for making awards.* (1) When a contracting officer has invited and received bids he will, subject to such further approval as may be required, make the award and execute the necessary papers, unless all bids are rejected.

(2) When bids are received by a contracting officer not authorized to make the award, the bids and the abstract of bids will be forwarded to the officer authorized to make the award (approving officer), with the recommendations of the contracting officer receiving the bids and of intermediate authorities as to the bidder to whom the award should be made.

[AFP Cir. 1, 1950; AFP Cir. 2, 1951] (R. S. 161, sec. 202, 61 Stat. 500, as amended; 5 U. S. C. 22 and Sup., 171a. Interpret or apply 62 Stat. 21; 41 U. S. C., Sup., 151–161)

13. Section 1002.101 is amended to read as follows:

§ 1002.101 *General requirements for negotiation.* During the period of the National Emergency, contracts and purchases may be negotiated pursuant to section 2 (c) (1), 62 Stat. 21; 41 U. S. C., Sup., 151, provided that business clearance or approval as prescribed in these procedures and applicable procuring activity instructions has been obtained. The Assistant Secretary of the Air Force executed a determination dated December 18, 1950 (see § 1002.201) and no further written findings and determinations are necessary to authorize negotiation.

CROSS REFERENCE: For section of Armed Services Procurement Regulation which this section implements see § 402.102 of this title.

14. Section 1002.201 is amended to read as follows:

§ 1002.201 *National emergency.* (a) On December 18, 1950, the Assistant Secretary of the Air Force executed the following determination under section 2 (c) (1) of the Armed Services Procurement Act 1947 (sec. 2 (c) (1), 62 Stat. 21; 41 U. S. C., Sup., 151):

DETERMINATION

Authority to negotiate purchases and contracts under section 2 (c) (1) of the Armed Services Procurement Act of 1947.

1. A National Emergency having been declared by the President of the United States on December 16, 1950, I hereby determine, in accordance with section 2 (c) (1) of the Armed Services Procurement Act of 1947, that it is necessary in the public interest that authority exist to make all purchases and contracts under said Act by negotiation without formal advertising during the period of said National Emergency.

2. Accordingly, I hereby authorize the negotiation of all purchases and contracts by the Department of the Air Force under section 2 (c) (1) of the Armed Services Procurement Act of 1947 during the period of said National Emergency.

(Signed) Eugene M. Zuckert,
EUGENE M. ZUCKERT,
Assistant Secretary of the Air Force.

(b) All negotiated procurements initiated during the period of the National Emergency will be accomplished under section 2 (c) (1) of the Armed Services Procurement Act of 1947, rather than any other section of the act. Each such contract will cite section 2 (c) (1) on its face or on the cover sheet.

(c) The requirement of § 1002.203 (d) in connection with the approval of contracts for personal and professional services remains in effect notwithstanding the fact that the contracts involved are negotiated under section 2 (c) (1) rather than section 2 (c) (4) of the act.

15. Paragraphs (b) (2) and (d) of § 1002.203 are amended to read as follows:

§ 1002.203 *Personal or professional services.* * * *

(b) *Specific authorization; statutory authorities.* * * *

(2) *Defense Appropriation Act, 1951 (Pub. Law 759, 81st Cong.).*

SEC. 601. During the current fiscal year, the Secretary of Defense and the Secretaries of the Air Force, Army and Navy, respectively, if they should deem it advantageous to the National Defense, and if, in their opinions, the existing facilities of the Department of Defense are inadequate, are authorized to procure services in accordance with section 15 of the Act of August 2, 1946 (5 U. S. C. 55a), but at rates for individuals not in excess of $50 per day, and to pay in connection therewith travel expenses of individuals, including actual transportation and per diem in lieu of subsistence while traveling from their homes or places of business to official duty station and return as may be authorized by law: *Provided*, that such contracts may be renewed annually.

* * * * *

(d) *Approval required.* Substantive authority for each contract of the type described in paragraph (c) of this section, regardless of amount, and each supplemental agreement or change order making a material change therein, must be obtained from the Secretary. Accordingly, each such contract, supplemental agreement, or change order will contain the "Approval of Contract" clause set forth in § 406.105–2 of this title. To obtain such authority, heads of procuring activities shall forward to the Secretary, through the Director of Procurement and Engineering, Headquarters United States Air Force, requests for findings and determinations, referring specifically to the applicable statutes and supported by a full statement of pertinent facts. Such requests for findings and determinations shall be accompanied by the contract, supplemental agreement, or change order for which approval is requested: *Provided, however*, That with respect to

individual contracts or classes of contracts, the Secretary may waive the requirement of submission of the contract, supplemental agreement, or change order.

* * * * *

16. Paragraph (c) is added to § 1002.305 as follows:

§ 1002.305 *Distribution of copies of determinations and findings.* * * *

(c) *Determination under section 2 (c) (1) of the Armed Services Procurement Act of 1947.* A copy of the determination made by the Assistant Secretary of the Air Force pursuant to section 2 (c) (1) (sec. 2 (c) (1), 62 Stat. 21; 41 U. S. C., Sup., 151) has been forwarded to the General Accounting Office. It will not be necessary to attach a copy of such determination to each contract negotiated under authority of section 2 (c) (1) of the act. (See § 1002.101.)

[AFP Cir. 1, 1950; AFP Cir. 2, 1951] (R. S. 161, sec. 202, 61 Stat. 500, as amended; 5 U. S. C. 22 and Sup., 171a. Interpret or apply 62 Stat. 21; 41 U. S. C., Sup., 151–161)

[SEAL] K. E. THIEBAUD,
Colonel, U. S. Air Force,
Air Adjutant General.

[F. R. Doc. 51-3812; Filed, Mar. 29, 1951; 8:45 a. m.]

TITLE 44—PUBLIC PROPERTY AND WORKS

Chapter I—General Services Administration

Subchapter B—Personal Property Management

PART 53—DIRECTED PROCUREMENT

MISCELLANEOUS AMENDMENTS

The regulations in this part (formerly 41 CFR Part 53, 13 F. R 8762, 15 F. R. 1346) are revised as follows:

1. Section 53.5 *Special supplies*, paragraph (i) *Refrigerators*, is revised to read as follows:

(i) *Refrigerators.* Portable commercial and household refrigerators and low temperature storage cabinets, with self-contained electric or gas units, in conformance with GSA Specification No. 811, April 28, 1950, or applicable specifications developed by the requisitioning agency. This paragraph also applies in Alaska and to wholly owned Government corporations, but does not apply to the Department of Defense, the Housing and Home Finance Agency, the Maritime Administration, the Panama Canal and the Public Health Service.

2. Section 53.5 *Special supplies*, paragraph (j) *Water coolers* (15 F. R. 6573), is revised to read as follows:

(j) *Water coolers.* Electric water coolers for land use of the following type and sizes listed in Federal Specification OO–C–566B, July 31, 1947: bubbler style (type I, air-colled condenser; type II water-cooled condenser), sizes 5, 10, and 20; cafeteria style (type III, air-cooled condenser; type IV, water-cooled condenser), sizes 20 and 30; remote style (type V, water-cooled condenser), sizes 10 and 20; and bottle style (type VI, air-cooled condenser), size 3. This paragraph also applies in Alaska and to wholly owned Government corporations, but does not apply to the Department of Defense.

3. Sections 53.6 and 53.7 are added, reading as follows:

§ 53.6 *Public utility services.* (a) Executive agencies, including wholly owned Government corporations and except as provided in paragraph (c) of this section, shall procure needed public utility services within the United States and its territories and possessions under applicable area-wide contracts therefor made by the General Services Administration from time to time. (Further information concerning such contracts may be obtained from the General Services Administration, Public Utilities Branch, Washington, D. C.)

(b) Contracts for public utility services within the United States and its territories and possessions entered into, in the absence of area-wide contracts as provided in paragraph (a) of this section, by executive agencies, including wholly owned Government corporations and except as provided in paragraph (c) of this section, shall be subject to such review as may be determined by the General Services Administration.

(c) This section does not apply to: (1) the Federal Bureau of Investigation, the Atomic Energy Commission, the Tennessee Valley Authority and the Central Intelligence Agency, except to the extent these agencies find compliance therewith will not interfere with their programs; and (2) the production, distribution and sale of public utility services by an executive agency.

(d) As used in this section, the term "public utility services" includes, without limitation, all public utility services procurable from a public utility company; such as, light, heat and power by electricity; gas, water and steam; communications by telephone, telegraph, teletypewriter, cable and radio, and facilities for such services.

§ 53.7 *Changes in communications service.* (a) Executive agencies, including wholly owned Government corporations and except as provided in paragraph (b) of this section, shall make no commitment concerning a proposed major change or installation of communications service in the United States and its territories and possessions until the General Services Administration has reviewed the proposed action.

(b) This section does not apply to:

(1) The Federal Bureau of Investigation, the Atomic Energy Commission, the Tennessee Valley Authority and the Central Intelligence Agency, except to the extent these agencies find compliance therewith will not interfere with their programs; and

(2) The Coast Guard; the Department of Defense; the Field Engineering and Monitoring Network of the Federal Communications Commission; the cryptographic circuits and equipment of the Department of State, the communications facilities used exclusively by its Security Division, and facilities used directly in the broadcasting operations of the Department of State; the communications facilities used exclusively in the enforcement activities of the Department of the Treasury; the Post Office Inspection Service; and the Fish and Wildlife Service of the Department of the Interior; the Weather Bureau's Operational Leased Lines; and the Civil Aeronautics Administration's Aeronautical Fixed Telecommunications Services.

(c) As used in this section, the term "major change or installation of communications service" means:

(1) Telephone service:

(i) Installation or removal of one or more private branch exchange switchboard positions;

(ii) Changes from manual to dial private branch exchange service, or vice versa;

(iii) Installation or removal of tie lines between private branch exchange switchboards; and

(iv) Installation or removal of intercity private line full period or foreign exchange services.

(2) Telegraph service:

(i) Installation or removal of Morse telegraph, teletypewriter (including TWX), facsimile or other type of telegraph terminal equipment;

(ii) Installation or removal of local or inter-city private line services; and

(iii) Installation or removal of Morse telegraph, teletypewriter or facsimile tie lines to domestic or international telegraph carriers.

(Sec. 205, 63 Stat. 389; 41 U. S. C. Sup., 235. Interpret or apply sec. 201, 63 Stat. 383; 41 U. S. C. Sup., 231.)

DERIVATION: Pers. Prop. Mgr. Regs. 13 and 14 and Gen. Reg. 7.

Dated: March 27, 1951.

RUSSELL FORBES,
Acting Administrator.

[F. R. Doc. 51-3868; Filed, Mar. 29, 1951; 8:51 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Part 51]

ORANGES (CALIFORNIA AND ARIZONA)

U. S. STANDARDS

Notice is hereby given that the United States Department of Agriculture is considering the issuance of United States Standards for Oranges (California and Arizona) under the authority contained in the Department of Agriculture Appropriation Act, 1951 (Pub. Law 759, 81st Cong., approved September 6, 1950) to supersede United States Standards for Oranges (California and Arizona) issued November 26, 1949. The standards are proposed to become effective during June 1951.

All persons who desire to submit written data, views or arguments for consideration in connection with the proposed standards shall file the same with M. W. Baker, Deputy Director, Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, South Building, Washington 25, D. C., not later than 5:30 p. m., e. s. t. on the 30th day after the publication of this notice in the FEDERAL REGISTER.

The proposed standards are as follows:

§ 51.301 *Standards for oranges (California and Arizona)*—(a) *Grades*—(1) *U. S. Fancy.* U. S. Fancy consists of oranges of similar varietal characteristics which are mature, well colored, firm, well formed, of smooth texture for the variety; free from decay, broken skins which are not healed, hard or dry skins, exanthema, growth cracks, bruises (except those incident to proper handling and packing), dryness or mushy condition, and from injury caused by split, rough, wide or protruding navels, creasing, scars, oil spots, scale, sunburn, dirt or other foreign material, disease, insects or mechanical or other means. (See *Tolerances* in paragraph (c) of this section.)

(2) *U. S. No. 1.* U. S. No. 1 consists of oranges of similar varietal characteristics which are mature, firm, well formed, of fairly smooth texture for the variety; free from decay, broken skins which are not healed, hard or dry skins, exanthema, growth cracks, bruises (except those incident to proper handling and packing), and from damage caused by dryness or mushy condition, split, rough, excessively wide or protruding navels, creasing, scars, oil spots, scale, sunburn, dirt or other foreign material, disease, insects, or mechanical or other means. Each fruit shall be well colored except Valencia oranges which shall be at least fairly well colored: *Provided,* That navel oranges in any lot which is destined for export and which is certified as meeting the standards for export need be only fairly well colored. (See *Tolerances* in paragraph (c) of this section.)

(3) *U. S. No. 2.* U. S. No. 2 consists of oranges of similar varietal characteristics which are mature, fairly well colored, fairly firm, and which may be slightly misshapen but not excessively rough; which are free from decay, broken skins which are not healed, hard or dry skins, exanthema, growth cracks, and from serious damage caused by bruises, dryness or mushy condition, split or protruding navels, creasing, scars, oil spots, scale, sunburn, dirt or other foreign material, disease, insects or mechanical or other means. (See *Tolerances* in paragraph (c) of this section.)

(4) *U. S. Combination grade.* Any lot of oranges may be designated "U. S. Combination" when not less than 40 percent, by count, of the oranges in each container meet the requirements of U. S. No. 1 grade and the remainder U. S. No. 2 grade. (See *Tolerances* in paragraph (c) of this section.)

(5) *U. S. No. 3.* U. S. No. 3 consists of oranges of similar varietal characteristics which are mature, which may be slightly spongy, misshapen, rough but not seriously lumpy; which are free from decay, broken skins which are not healed, hard or dry skins, exanthema, and from serious damage caused by growth cracks, bruises, dryness or mushy condition, and from very serious damage caused by split navels, creasing, scars, oil spots, scale, sunburn, dirt or other foreign material, disease, insects or mechanical or other means. (See *Tolerances* in paragraph (c) of this section.)

(b) *Unclassified.* Unclassified consists of oranges which have not been classified in accordance with any of the foregoing grades. The term "unclassified" is not a grade within the meaning of these standards but is provided as a designation to show that no definite grade has been applied to the lot.

(c) *Tolerances.* In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances are provided as specified:

(1) *U. S. Fancy, U. S. No. 1, U. S. No. 2 and U. S. No. 3 grades.* Not more than 10 percent, by count, of the fruit in any lot may be below the requirements of the specified grade, other than for color, but not more than one-twentieth of this amount, or one-half of 1 percent, shall be allowed for decay at shipping point: *Provided,* That an additional tolerance of 2½ percent, or a total of not more than 3 percent, shall be allowed for decay enroute or at destination. In addition, not more than 10 percent, by count, of the fruit in any lot may not meet the requirements relating to color.

(2) *U. S. Combination grade.* Not more than 10 percent, by count, of the fruit in any lot may be below the requirements of this grade, other than for color, but not more than one-twentieth of this amount, or one-half of 1 percent, shall be allowed for decay at shipping point: *Provided,* That an additional tolerance of 2½ percent, or a total of not more than 3 percent, shall be allowed for decay enroute or at destination. This 3 percent tolerance may be used to reduce the percentage of U. S. No. 1 grade required in the combination, provided the affected fruits meet the requirements of U. S. No. 1 grade in other respects. In addition, not more than 10 percent, by count, of the fruit in any lot may not meet the requirements of the U. S. No. 2 grade for color. No part of any tolerance, other than that for decay, shall be allowed to reduce for the lot as a whole the percentage of U. S. No. 1 in the combination, but individual containers may have not more than a total of 10 percent less than the percentage of U. S. No. 1 specified: *Provided,* That the entire lot averages within the percentage specified.

(d) *Application of tolerances to individual packages.* (1) The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations: *Provided,* That the averages for the entire lot are within the tolerances specified for the grade.

(2) For packages which contain more than 25 pounds, and a tolerance of 10 percent or more is provided, individual packages in any lot shall have not more than one and one-half times the tolerance specified. For packages which contain more than 25 pounds and a tolerance of less than 10 percent is provided, individual packages in any lot shall have not more than double the tolerance specified, except that at least one decayed or very seriously damaged fruit may be permitted in any package.

(3) For packages which contain 25 pounds or less, individual packages in any lot are not restricted as to the percentage of defects: *Provided,* That not more than one organge which is seriously damaged by dryness or mushy condition or very seriously damaged by other means may be permitted in any package and, in addition, enroute or at destination not more than 10 percent of the packages may have more than one decayed fruit.

(e) *Standard pack.* (1) Oranges shall be uniform in size and, when packed in boxes, shall be arranged according to the approved and recognized methods. Each wrapped fruit shall be fairly well wrapped.

(2) All packages shall be well filled, but the contents shall not show excessive or unnecessary bruising because of overfilled packages. The fruit shall be tightly packed.

(3) When oranges are packed in standard nailed boxes, each box shall show a minimum bulge of 1¼ inches.

(4) "Uniform in size" means that not more than 10 percent, by count; of the oranges in any container may be one standard size larger or smaller than the standard size orange for the count packed.

(5) *Example of standard size orange.* The standard size orange for a 200 count

is that size orange which will pack tightly 200 oranges of uniform size when packed according to the approved and recognized method.

(6) In order to allow for variations incident to proper packing, not more than 5 percent of the containers in any lot may not meet the requirements for the standard pack.

(f) *Standards for export.* (1) Not more than a total of 10 percent, by count, of the oranges in any container may be soft, affected by decay, have broken skins which are not healed, growth cracks, or be damaged by creasing or skin breakdown, or seriously damaged by split or protuding navels, or by dryness or mushy condition, except that:

(i) Not more than one-half of 1 percent shall be allowed for oranges affected by decay.

(ii) Not more than 3 percent shall have broken skins which are not healed.

(iii) Not more than 3 percent shall have growth cracks.

(iv) Not more than 5 percent shall be soft.

(v) Not more than 5 percent shall be damaged by creasing.

(vi) Not more than 5 percent shall be seriously damaged by split or protuding navels.

(vii) Not more than 5 percent shall be seriously damaged by dryness or mushy condition.

(viii) Not more than 5 percent shall be damaged by skin breakdown.

(2) Any lot of oranges shall be considered as meeting the standards for export if the entire lot averages within the requirements specified: *Provided*, That no sample from the containers in any lot shall have more than double the percentage specified for any one defect, and that not more than a total of 10 percent, by count, of the oranges in any container has any of the defects enumerated in the standards for export.

(g) *Definitions.* (1) "Similar varietal characteristics" means that the fruits in any container are similar in color and type.

(2) "Well colored" means that the fruit is at least light orange in color, with not more than a trace of green at the stem end, and not more than 15 percent of the remainder of the surface of the fruit shows green color.

(3) "Firm" means that the fruit is not soft or noticeably wilted or flabby.

(4) "Well formed" means that the fruit shows the normal shape characteristic of the variety.

(5) "Smooth" means that the skin is of fairly fine grain, the "pebbling" is not pronounced, and any furrows radiating from the stem end are shallow.

(6) "Injury" means any defect which more than slightly affects the appearance, or the edible or shipping quality of the fruit. Any one of the following defects, or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, small be considered as injury:

(i) Split, rough, wide or protruding navels, when a split is unhealed or is more than one-eighth inch in length; or when the navel protrudes beyond the general contour of the fruit; or when flush with the contour but with the opening so wide, considering the size of the fruit, or the navel growth so folded and ridged, that it detracts noticeably from the appearance of the fruit.

(ii) Slight creasing which is more than barely visible, or which extends over more than 20 percent of the fruit surface.

(iii) Scarring (including sprayburn and fumigation injury) which exceeds the following aggregate areas of different types of scars, or a combination of two or more types of scars, the seriousness of which exceeds the maximum allowed for any one type:

(*a*) Scars which are very dark and which have an aggregate area exceeding that of a circle one-eighth inch in diameter.

(*b*) Scars which are dark, or rough, or deep and which have an aggregate area exceeding that of a circle one-fourth inch in diameter.

(*c*) Scars which are fairly light in color, slightly rough, or with slight depth and which have an aggregate area exceeding that of a circle one-half inch in diameter.

(*d*) Scars which are light in color, fairly smooth, with no depth and which have an aggregate area of more than 5 percent of the fruit surface.

(iv) Oil spots (oleocellosis or similar injuries) which are depressed or soft, or which have an aggregate area of more than 2½ percent of the fruit surface, or which are green and more than 4 in number.

(v) Scale, if more than 5 are present.

(vi) Sunburn which appreciably changes the normal color or shape of the fruit, or affects more than 10 percent of the fruit surface.

(7) "Fairly smooth" means that the skin does not feel noticeably rough or coarse. The size of the fruit should be considered in judging texture, as large fruit is not usually as smooth as smaller fruit. It is common for the fruit to show larger and coarser "pebbling" on the stem end portion than on the blossom end. The presence of furrows or grooves on the stem end portion of the fruit is a common condition in certain varieties, and the fruit shall not be considered as slightly rough unless the furrows or grooves are of sufficient depth, length, and number as to materially affect the appearance and smoothness of the orange.

(8) "Damage" means any defect which materially affects the appearance, or the edible or shipping quality of the fruit. Any one of the following defects, or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as damage:

(i) Dryness or mushy condition when affecting all segments more than one-fourth inch at the stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.

(ii) Split, rough, excessively wide or protruding navels, when more than 3 splits, or when any split is unhealed or is more than one-fourth inch in length; or navels which flare, bulge, or protrude materially beyond the general contour of the fruit; or when the navel opening is so wide, considering the size of the fruit, or the navel growth is so folded and ridged, that it detracts materially from the appearance of the fruit.

(iii) Creasing which materially weakens the skin, or which extends over more than one-third of the fruit surface.

(iv) Scarring (including sprayburn and fumigation injury) which exceeds the following aggregate areas of different types of scars, or a combination of two or more types of scars, the seriousness of which exceeds the maximum allowed for any one type:

(*a*) Scars which are very dark and with slight depth and which have an aggregate area exceeding that of a circle one-fourth inch in diameter.

(*b*) Scars which are very dark, with no depth, and which have an aggregate area exceeding that of a circle one-half inch in diameter.

(*c*) Scars which are dark and rough or deep and which have an aggregate area exceeding that of a circle one-half inch in diameter.

(*d*) Scars which are dark and slightly rough, or with slight depth, and which have an aggregate area exceeding that of a circle three-fourths inch in diameter.

(*e*) Scars which are fairly light in color, slightly rough, or with slight depth and which have an aggregate area of more than 5 percent of the fruit surface.

(*f*) Scars which are light in color, fairly smooth, with no depth and which have an aggregate area of more than 10 percent of the fruit surface.

(v) Oil spots (oleocellosis or similar injuries) which are depressed or soft, or which have an aggregate area of more than 5 percent of the fruit surface, or which are green and more than 7 in number.

(vi) Scale, if more than 3 scales are present in each of three circular areas 1 inch in diameter, selected as the worst infested areas, or if more than 7 scales are present in one of these areas.

(vii) Sunburn which causes appreciable flattening of the fruit, drying or darkening of the skin, or affects more than 25 percent of the fruit surface.

(9) "Fairly well colored" means that the yellow or orange color predominates on the fruit.

(10) "Fairly firm" means that the fruit may be slightly soft but is not decidedly flabby.

(11) "Slightly misshapen" means that the fruit is not of the shape characteristic of the variety but is not decidedly flattened, pointed, extremely elongated, or otherwise badly deformed.

(12) "Excessively rough" means that the skin is decidedly rough, badly folded, badly ridged, or decidedly lumpy. Heavily "pebbled" skin shall not be considered as excessively rough.

(13) "Serious damage" means any defect which seriously affects the appearance, or the edible or shipping quality of the fruit. Any one of the following defects, or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as serious damage:

(i) Dryness or mushy condition, when affecting all segments more than one-half inch at the stem end, or the equivalent of this amount by volume, when occurring in other portions of the fruit.

(ii) Split or protuding navels, when any split is unhealed or is more than one-half inch in length, or when two or more splits aggregate more than 1 inch in length; or navels which protude seriously beyond the general contour of the fruit; or when the navel opening is so wide, considering the size of the fruit, or the navel growth so badly folded and ridged, that it detracts seriously from the appearance of the fruit.

(iii) Creasing which seriously weakens the skin, or which is distributed over practically the entire fruit surface.

(iv) Scarring (including sprayburn and fumigation injury) which exceeds the following aggregate areas of different types of scars, or a combination of two or more types of scars, the seriousness of which exceeds the maximum allowed for any one type:

(*a*) Scars which are very dark, or very rough, or very deep, and which have an aggregate area of more than 5 percent of the fruit surface.

(*b*) Scars which are dark, or rough, or deep and which have an aggregate area of more than 10 percent of the fruit surface.

(*c*) Scars which are fairly light in color, slightly rough or with slight depth and which have an aggregate area of more than 15 percent of the fruit surface.

(*d*) Scars which are light in color, fairly smooth, and with no depth and which have an aggregate area of more than 25 percent of the fruit surface.

(v) Oil Spots (oleocellosis or similar injuries) which are depressed or soft, or which have an aggregate area of more than 10 percent of the fruit surface.

(vi) Scale, if more than 9 scales are present in each of three circular areas 1 inch in diameter, selected as the worst infested areas, or if more than 19 scales are present in one of these areas.

(vii) Sunburn which causes decided flattening of the fruit, drying or dark discoloration of the skin, or affects more than one-third of the fruit surface.

(viii) Growth cracks that are leaking, gummy, or not well healed.

(14) "Slightly spongy" means that the fruit is puffy or slightly wilted but not flabby.

(15) "Misshapen" means that the fruit is decidedly flattened, pointed, extremely elongated or otherwise deformed.

(16) "Very serious damage" means any defect which very seriously affects the appearance, or the edible or shipping quality of the fruit. Any one of the following defects, or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as very serious damage:

(i) Split navels which are leaking, gummy, or not well healed.

(ii) Creasing which is so deep or extensive that the skin is very seriously weakened.

(iii) Scarring (including sprayburn and fumigation injury) which exceeds the following aggregate areas of different types of scars, or a combination of both types of scars, the seriousness of which exceeds the maximum allowed for one type:

(*a*) Scars which are very dark, or very rough, or very deep and which have an aggregate area of more than 10 percent of the fruit surface.

(*b*) Scars which are dark, or rough, or deep and which have an aggregate area of more than 25 percent of the fruit surface.

(iv) Oil spots which are badly sunken, or soft.

(v) Scale which are so numerous or large that the appearance of the fruit is very seriously affected.

(vi) Sunburn which seriously affects more than one-third of the fruit surface, or causes dark discoloration aggregating more than 5 percent of the fruit surface.

(Pub. Law 759, 81st Cong.)

Done at Washington, D. C., this 27th day of March 1951.

[SEAL] JOHN I. THOMPSON,
Assistant Administrator, Production and Marketing Administration.

[F. R. Doc. 51-3882; Filed, Mar. 29, 1951; 8:56 a. m.]

[7 CFR, Part 52]

U. S. STANDARDS FOR GRADES OF CRANGE MARMALADE

EXTENSION OF TIME

Notice is hereby given of an extension, until April 13, 1951, of the period of time within which written data, views, and arguments may be submitted by interested parties for consideration in connection with the proposed issuance of United States Standards for Grades of Orange Marmalade. The proposed standards are set forth in the notice which was published in the FEDERAL REGISTER on February 14, 1951 (16 F. R. 1550).

Done at Washington, D. C., this 27th day of March 1951.

[SEAL] JOHN I. THOMPSON,
Assistant Administrator, Production and Marketing Administration.

[F. R. Doc. 51-3881; Filed, Mar. 29, 1951; 8:56 a. m.]

[7 CFR, Part 729]

DISTRIBUTION OF PROCEEDS RECEIVED BY COMMODITY CREDIT CORPORATION FROM SALE OF EXCESS VIRGINIA AND VALENCIA TYPES OF PEANUTS FOR CLEANING AND SHELLING

NOTICE OF PROPOSED RULE MAKING

Pursuant to the applicable provisions of the Agricultural Adjustment Act of 1938, as amended (7 U. S. C. 1301-1376), the Secretary of Agriculture is preparing to formulate regulations governing the distribution of proceeds realized from the sale of Virginia and Valencia types of excess peanuts of the 1950 crop which were delivered to or marketed through agencies designated by the Secretary. Payments are proposed to be made to producers who delivered such types of excess peanuts to designated agencies, in accordance with the following pertinent provisions of section 359 (g) of the act.

If the total acreage of peanuts picked or threshed on the farm does not exceed the total acreage of peanuts picked or threshed on the farm in 1947, payment of the marketing penalty as provided in subsection (a) will not be required on any excess peanuts which are delivered to or marketed through an agency or agencies designated each year by the Secretary. * * * For all peanuts so delivered to a designated agency under this subsection, producers shall be paid for the portion of the lot constituting excess peanuts, the prevailing market value thereof for crushing for oil (but not more than the price received by such agency from the sale of such peanuts), less the estimated cost of storing, handling, and selling such peanuts: *Provided*, That for the 1950 crop if the Secretary determines that the supply of any type of peanuts is insufficient to meet the demand for cleaning and shelling purposes at prices at which the Commodity Credit Corporation may sell peanuts owned or controlled by it for such purposes, the Secretary shall permit the sale, for cleaning and shelling, of the excees peanuts of such type so delivered. Such sales shall be in quantities necessary to meet such demand and at prices not less than those at which the Commodity Credit Corporation may sell peanuts owned or controlled by it for cleaning and shelling. The proceeds received from the sale of such peanuts of such type for cleaning and shelling shall, after deduction of the price paid to producers and other costs incurred in connection therewith, including estimated cost of proration, be prorated proportionately among all of the producers delivering excess peanuts of such type to designated agencies under this section * * *

Virginia and Valencia types of peanuts of the 1950 crop were declared to be in short supply on October 6, 1950 (15 F. R. 6833).

Commodity Credit Corporation was designated by the Secretary of Agriculture as the agency to which excess peanuts could be delivered pursuant to section 359 (g) of the act, with authority to utilize shellers, crushers, warehousemen, and other persons as its agents to receive, handle, and dispose of such excess peanuts (15 F. R. 4739).

It is proposed that the regulations governing the distribution of proceeds from the sale for cleaning and shelling of excess peanuts of the Virginia and Valencia types will include the following principal points:

1. The final dates for deliveries by producers of excess peanuts to Commodity Credit Corporation, in order for such producers to share in the distribution of sales proceeds on the basis of such deliveries, will be approximately May 1, 1951, in the case of Valencia type peanuts and June 15, 1951, in the case of Virginia type peanuts.

2. The total quantity of excess peanuts of each type delivered to Commodity Credit Corporation, and the quantity delivered from each farm, will be deter-

mined from memoranda of sale issued from excess oil marketing cards pursuant to the Marketing Quota Regulations for the 1950 crop of peanuts (15 F. R. 4739), and such quantities will not include any peanuts acquired by seed shellers in connection with shelling producers' peanuts for seed.

3. The total amount of money to be prorated among producers for each type of peanuts will be determined by deducting from the total proceeds received by Commodity Credit Corporation from the sale of excess peanuts of such type for cleaning and shelling, the estimated costs of proration and the total of the amounts paid to producers with respect to peanuts of such type delivered to Commodity Credit Corporation (which amounts reflect deductions made in determining prevailing oil prices to cover the estimated costs of storing, handling, and selling excess peanuts).

4. The rate of payment to be made to producers for each type of peanuts will be determined by dividing the total amount to be prorated for each type by the total pounds of excess peanuts of such type delivered to Commodity Credit Corporation without regard to grade or quality of the peanuts so delivered.

5. Where more than one producer is interested in the Virginia or Valencia type of excess peanuts produced on a farm and delivered to Commodity Credit Corporation, each producer's poundage share with respect to each type will be determined by multiplying the producer's percentage share for such type (determined from the 1950 Performance Report Form PMA–578 for the farm), by the total pounds of excess peanuts of such type produced on the farm and delivered to Commodity Credit Corporation, unless such poundage share is redetermined by the PMA county committee on the basis of evidence submitted by producers on the farm.

6. Each producer will be required to sign an application for payment certifying to the correctness of his percentage share and poundage share. The amount due any producer who cannot be located to sign an application for payment will be held in abeyance pending location of such producer.

7. Any amount payable to a producer will be subject to set-off for any indebtedness of the producer to the United States or any agency thereof.

Prior to issuance of the regulations, consideration will be given to any data, views, and recommendations relating thereto which are submitted in writing to the Director, Fats and Oils Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C. All submissions must be postmarked not later than 10 days from the date of publication of this notice in the FEDERAL REGISTER.

Done at Washington, D. C., this 26th day of March 1951.

[SEAL] F. K. WOOLLEY,
Acting Administrator.

[F. R. Doc. 51–3858; Filed, Mar. 29, 1951; 8:49 a. m.]

[7 CFR, Part 929]

[Docket No. AO 228]

HANDLING OF MILK IN MUSKOGEE, OKLA., MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS THERETO WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to a proposed marketing agreement and to a proposed order, regulating the handling of milk in the Muskogee, Oklahoma, marketing area.

Interested parties may file written exceptions to this decision with the Hearing Clerk, Room 1353, South Building, United States Department of Agriculture, Washington 25, D. C., not later than the close on the 20th day after publication of this recommended decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. The public hearing, on the record of which the proposed marketing agreement and the proposed order were formulated, was called by the Production and Marketing Administration, United States Department of Agriculture, following receipt of a petition filed by the Muskogee Dairy Farmers Association, Muskogee, Oklahoma, and was held at Muskogee, Oklahoma, November 6 through 10, 1950, pursuant to notice thereof which was issued on October 19, 1950, (15 F. R. 7050). The period from November 10, 1950 through January 2, 1951, was reserved for interested parties to file briefs on the record.

The material issues of record related to:

1. Whether the handling of milk produced for the Muskogee, Oklahoma, fluid milk market is in the current of interstate commerce or directly burdens, obstructs, or affects interstate commerce in milk or its products;
2. The need for regulation;
3. The extent of the marketing area;
4. What milk should be priced under an order;
5. The classification of milk;
6. The level of class prices to be paid and means of determining such prices;
7. The type of pool and base rating method of distributing returns to producers; and
8. Administrative provisions.

Findings and conclusions. The following findings and conclusions on the material issues decided herein are hereby made upon the basis of the record of the hearing:

1. The handling of milk in the Muskogee, Oklahoma, marketing area is in the current of interstate commerce, and directly burdens, obstructs, or affects interstate commerce in milk and its products.

The record shows that milk producers located in Arkansas hold permits for the production of milk for the Muskogee market and that such production is being received by Muskogee handlers as a part of their regular supply. Also during 1949 and the early part of 1950, milk was received by a Muskogee handler from producers located in Missouri.

Milk of the regular approved supply for the Muskogee market also moves to points outside of the State of Oklahoma. Milk and milk products are distributed regularly by a Muskogee handler in communities of northwestern Arkansas and southeastern Kansas. This handler also packages milk in his Muskogee plant for distribution in Fort Smith, Arkansas. Substantial shipments of bulk milk for fluid use have been made to the State of Texas.

Substantial interstate commerce occurs with respect to milk produced for the Muskogee market and with respect to dairy products manufactured from such milk. During the months of seasonally high production surplus milk is normally disposed of to manufacturing plants located in Arkansas and Oklahoma. The products made from such surplus milk include butter, cheese, and condensed milk which are sold on the national market.

It is evident, therefore, that the handling of milk produced for the Muskogee, Oklahoma, marketing area is in the current of interstate commerce, and directly burdens, obstructs, or affects interstate commerce in milk and its products.

2. Marketing conditions in the Muskogee, Oklahoma, marketing area justify the issuance of a marketing agreement and order. A cooperative bargaining association representing a substantial number of producers has for some years negotiated with the two major handlers serving the Muskogee market. For 1950 a verbal agreement was negotiated whereby these handlers were to pay for their milk on the basis of its use in two classes. The higher priced class would include milk sold for fluid consumption as milk or milk products required by the local health ordinance to be made from Grade A milk, and the lower priced class would include milk used for the production of other milk products. Under the agreed scheme, the class use value of milk was to be returned to producers by a "base" plan under which each producer was to receive the higher or "base" price for an amount of milk equal to the same percentage of his established base as the percentage of fluid milk and milk product sales of the handler was of the total of established bases of all producers of the handler.

Muskogee handlers, however, do not confine their buying activities to milk received at their Muskogee plants and the producers' association represents only a few producers who deliver to other receiving stations. The agreement under which milk was to be bought in 1950 was interpreted differently by the association and by one handler with respect to what receipts and sales should be

included in determining percentages of base milk for which producers were to be paid. Milk received at all points by this handler is moved to his Muskogee plant where all bottling operations are conducted, after which some milk is transferred to distribution points, which in some instances are at the same locations as the handler's receiving stations. The association believed the agreement provided for the inclusion of all receipts from producers who had established bases and for all sales. The handler insisted that receipts at certain receiving points and sales in certain areas should not be included. He also believed that bases should be included for some producers who had not established bases during the regular base-setting period, and he computed and made payments on this basis. Since receipts at certain points and sales in certain areas were not disclosed, the association had no means of knowing to what extent the returns of its members and other producers paid on the same basis truly reflected the use of their milk. Since July 1, 1950, this handler has made no records available to the association from which the utilization of any of his receipts can be determined.

Producers delivering to outlying receiving stations were shown to have been paid different prices for different percentages of established bases than those delivering to Muskogee. The record does not reveal that at any time producers delivering to receiving stations were paid less than the base price for established base deliveries, while producers delivering to Muskogee plants were for many pay periods paid less than the base price for a portion of their established bases. The differences in prices paid were not shown to be related to location or hauling adjustments. The differentials used in adjusting producer prices for the butterfat content of milk also varied without relation to the value of such butterfat. Handlers have also had differing costs of milk used for fluid use.

The agreed plan failed to recognize that individual producers do not at all times deliver milk equal to their established bases or the percentage of such bases determined under the plan. As a result the aggregate quantity of milk paid for at the higher price did not equal the volume of sales used in the computation of the base ratios. While some attempts at correction were made after this fact was discovered, handlers had for several months prior to the hearing disregarded these discrepancies entirely in computing their payments. The testimony of one handler witness indicates that this was done in lieu of a downward adjustment of prices which handlers proposed but failed to negotiate with the association.

As a result of these factors the marketing plan negotiated for 1950 has not worked and it does not appear that producers and handlers are able by negotiation to work out a plan whereby the difficulties can be adjusted so that equity to all producers and equal costs to handlers will result. The fact that at the hearing handlers offered to waive the necessity of testimony concerning need for regulation strongly supports these conclusions.

A marketing agreement or order is needed to establish uniform prices to handlers for milk in accordance with its use and to provide for equitable distribution of returns among producers. The auditing of the utilization of all milk received by handlers and the checking of butterfat tests and weights of producer milk will aid in establishing and maintaining stable marketing conditions by assuring producers that they will receive a proper accounting for their milk.

3. The marketing area should include all the territory within the boundaries of the cities of Muskogee, McAlester, and Tehlequah, Oklahoma.

Two proposals for defining the marketing area were made prior to the hearing. The Muskogee Dairy Farmers Association proposed the territory within the city limits of Muskogee, and the townships of Harris and Darling in Muskogee County, Oklahoma. Two major handlers with milk bottling plants located within the city of Muskogee proposed that the area include all of territory within the countries of Muskogee, Wagoner, Cherokee, Adair, Sequoyah, Haskell, Le Flore, Latimer, Pushmataha, McCurtin, Choctan, Atoka, Pittsburg, McIntosh, Hughes and Seminole.

The two principal handlers with plants in Muskogee distribute milk over a wide area. Much of this area, however, is rural territory and small towns with no effective health requirements of their own. In such areas milk distribution, except for an occasional small producer-handler, is entirely by Muskogee handlers or by handlers from other cities outside the areas proposed by either proponents or handlers. In the hearing handlers conceded that it would not be feasible to extend regulation to an area as extensive as that they had proposed. They contended, however, that the marketing area should include the cities of Muskogee, Tahlequah, McAlester, Westville, Stillwell, Sallisaw and Poteau. The townships of Harris and Darling in Muskogee county have no substantial urban population to distinguish them from other rural territory.

Muskogee handlers distribute a substantial portion of the milk sold in the cities of McAlester and Tahlequah. Health requirements for production and processing of milk sold for fluid consumption in the cities of Muskogee, McAlester, and Tahlequah are similar. There is a local handler in each of the cities of McAlester and Tahlequah who competes with Muskogee handlers for sales of fluid milk in these cities. Such handlers also compete with Muskogee handlers in purchasing their supplies of milk. The major volume of their sales are in the area proposed and their principal competition for sales beyond the limits of the proposed area is with Muskogee handlers. The definition of the marketing area herein provided for will result in the regulation of substantially all of the Grade A milk distributed in the outlying rural areas without at the same time making milk which is not produced in conformity with Grade A regulations subject to the pricing, pooling and other regulatory terms of the order.

While these cities do not represent the entire area of distribution of Muskogee handlers, they appear to be the principal centers of population in which a substantial portion of the total milk distribution is made by Muskogee handlers. In the four other cities proposed by the handlers, it appears that distribution by Muskogee handlers represents somewhat less of the total distribution in such cities and there was no indication that the health requirements of such cities are comparable to the three cities recommended for inclusion in the area. In some of these cities and towns milk is also distributed by some milk dealers from Fort Smith, Arkansas, a market somewhat comparable in size to Muskogee and in which some milk is also distributed from Muskogee. Since Fort Smith is not included in the marketing area, however, the marketing area should be so defined that no Fort Smith milk dealer would be regulated merely because of his sales in these outlying cities and towns.

4. The milk to be priced under the order should be that which is produced under the inspection of the appropriate health authority of the marketing area for consumption as Grade A milk, and which is regularly delivered to a plant distributing such milk on routes in the marketing area or to a receiving plant supplying such milk to a distributing plant. The milk distributed in the marketing area is inspected by the health authorities of the cities of Muskogee, McAlester, and Tahlequah, which require fluid milk, cream and certain other products to be of Grade A quality.

The milk to be priced and pooled under the order should be that which constitutes the regular source of supply for the marketing area. The regular source of supply may be delineated by providing appropriate definitions of the following terms: "approved plant," "handler," and "producer."

"Approved plant" should be defined as a milk plant approved by any health authority having jurisdiction in the marketing area from which milk, skim milk, buttermilk, flavored milk, flavored milk drinks, or cream are disposed of for fluid consumption in the marketing area on wholesale or retail routes, including plant stores. The definition should also include a plant which serves as a receiving station for producer milk by receiving, weighing, and commingling such milk for shipment to a plant described above. The approved plant definition should exclude, however, plants which are not regularly supplying milk to the market, but furnish such supplies only during temporary periods of shortages. The inclusion of such plants would result in pricing milk not produced primarily for the market and would, therefore, be beyond the intended scope of the order.

"Handler" to whom the regulatory provisions of the order are applicable, should be defined as an operator of an "approved plant" in his capacity as such, and a cooperative association with respect to milk which it causes to be diverted from an approved plant to an unapproved plant for its account. Proprietary handlers

may not always be in a position during periods of high production to accept milk from all regular producers or arrange for temporary diversion of milk, even though the production from all producers may be needed to supply the market during lower production periods. The provision that a cooperative association may be a handler even though it does not operate a plant will make it possible for the association to maintain any milk which it causes to be diverted under the pricing and pooling provisions of the order. This will permit all regular producers to receive the regulated price and should facilitate the marketing of surplus milk.

"Producer" should be defined to include those persons, other than producer-handlers, who produce milk under a dairy permit or rating issued by any health authority having jurisdiction in the marketing area for the production of milk to be disposed of for consumption as Grade A milk, and which is received at an approved plant, or diverted from an approved plant to an unapproved plant. This definition would include all producers who regularly supply the marketing area with milk of Grade A quality. A producer regularly supplying the market should not lose his status as such during temporary periods when a handler diverts his milk from an approved plant for the handler's account. Producer-handlers (those who distribute only milk of their own production) should not be included in this definition since such persons normally disposed of to handlers only that milk which is in excess of their own sales to retail customers. Therefore, they should not share the returns from Class I sales with producers who regularly supply the handlers with milk. In order to prevent duplication in the regulation of prices, persons whose milk is priced under another Federal order are not to be included as producers under this order.

5. The order should provide for two classes of milk.

Class I milk should include all skim milk and butterfat disposed of in the form of milk, skim milk and buttermilk, flavored milk, flavored milk drinks, cream, cultured sour cream, and any other product required by the appropriate health authority of the city of Muskogee to be made from Grade A milk. It should also include all skim milk and butterfat not specifically accounted for as Class II milk.

Class II milk should include all skim and butterfat (1) used to produce any product other than those defined as Class I milk, (2) disposed of for livestock feed, (3) shrinkage up to 2 percent of receipts from producers, (4) shrinkage of other source milk, and (5) inventory variations of Class I milk.

The proposal of the handlers to provide for a Class III classification for surplus butterfat utilized in the manufacture of butter should not be adopted. The classification of all manufactured products which are not required to be made from Grade A milk as Class II milk gives due consideration to the general average level of prices of milk for diversified manufacturing uses. The adoption of this proposal would classify and price such butterfat from milk of Grade A quality below the general average level of the prices paid for milk for manufacturing purposes and such a lower priced class was not shown to be necessary in order to dispose of the probable amounts of surplus milk.

The producers proposed classification into two classes approximately as set forth above. They first proposed that cottage cheese and aerated products be included in Class I milk, but later proposed that cottage cheese or any other products not required to be made from Grade A milk be classified as Class II milk.

The products included in Class I milk are those required by the appropriate health authorities to be processed from Grade A milk. Furthermore the products are those which have been included under the accounting between handlers and the cooperative association supplying them. None of the products included in Class II are required to be made from Grade A milk. Such products as butter, cheese, condensed and evaporated milk, and other manufactured dairy products, which are not required by the health authorities to be made from Grade A milk are normally processed from Nongrade A milk but may contain Grade A milk at times when handlers' supplies of Grade A milk are in excess of Class I sales. It is considered necessary, at such times, when producer receipts of Grade A milk are in excess of sales to move excess milk into manufacturing channels.

A shrinkage allowance is included also in Class II milk. Producers proposed that shrinkage up to 1 percent of receipts from producers be classified as Class II milk and shrinkage in excess of this amount be classified as Class I milk. Handlers offered testimony to indicate shrinkage experience over a period of time ranged from less than 1 percent to more than 5 percent. It is concluded that the maximum shrinkage allowance on unaccounted for producer milk to be included in Class II milk should be 2 percent. It appears that a 2 percent shrinkage allowance is reasonable for milk plant operations and such allowance is comparable to other markets under regulation. Any shrinkage of producer milk in excess of that allowed to be classified as Class II milk should be accounted for as Class I milk. No limit is placed on the amount of shrinkage in other source milk allowed as Class II milk since such milk would be deducted from the lowest available use classification under the allocation provisions of the order.

Provisions are included herein for the classification of milk when it is transferred or diverted in the form of milk, skim milk, or cream from an approved plant, to an approved plant of another handler, to producer-handlers, and to unapproved plants. Transfers or diversions to an approved plant of another handler may be classified as agreed upon between the parties to the transaction, subject to the requirement that producer milk shall have priority over other source milk for Class I use. Transfers or diversions to producer-handlers should be Class I milk since such persons' operations are primarily confined to Class I milk. Transfers or diversions to unapproved plants within 185 miles of an approved plant should be Class I milk, unless the market administrator is permitted to audit the records of receipts and utilization at the unapproved plant to determine the classification of all of the receipts of milk at such plant which would thereby subject the milk to reclassification or to the allocation provisions that insure producers the higher use classification available to them on a monthly use basis. Transfers or diversions to unapproved plants beyond 185 miles from an approved plant should be classified as Class I milk. The record shows ample manufacturing facilities within the 185-mile limit to handle all surplus producer milk and no reason was shown for the necessity to move milk for manufacturing purposes to more distant points. Testimony disclosed shipments of milk for fluid use, under certificate as Grade A, to points beyond the 185-mile limitation.

The order further provides that skim milk and butterfat received by handlers from sources other than producers shall be allocated to the lowest use in the handler's plant. This is necessary to prevent other source milk from displacing the milk of producers who constitute the regular source of supply of the market.

6. *Class prices.* Class I milk prices in this area should be based on prices paid for milk used for manufacturing purposes. Prices paid for milk used for fluid purposes in this area have been closely related to prices paid for milk for manufacturing purposes. Production and marketing of milk for each type of outlet are subject to many of the same economic factors. Since the market for most manufactured products is country-wide, prices of manufactured dairy products reflect many of the changes in the general economic conditions affecting the supply and demand for milk. Moreover, butter, powder, and cheese prices, or the prices paid by condensaries with differentials over these basic or manufacturing prices are frequently used to establish fluid milk prices in those areas where the production of manufacturing quality milk is a significant factor in the total potential supply of milk for the market. The production of manufacturing quality milk in the supply area of the Muskogee area is a significant factor in the availability of milk for this market indicating the feasibility of a Class I pricing formula based on the prices of milk for manufacturing uses. Differentials over the basic formula are needed to cover the cost of meeting quality requirements in the production of market milk and to furnish the necessary incentive to get such milk produced.

The basic formula price to be used in establishing the current delivery period price for Class I milk of 4.0 percent butterfat content should be the highest of the following for the preceding month: the prices paid to farmers at 18 milk manufacturing plants in Wisconsin and Michigan for milk of 3.5 percent butterfat content adjusted to a 4.0 percent basis; a formula price based upon the market price of butter and powder; or

the average price paid to farmers for milk of 4.0 percent butterfat content by specified local manufacturing plants.

Pricing of producer milk on a 4.0 percent butterfat basis follows the usual custom of the market and no objection was made to the proposal. The components of the basic formula price herein decided upon are the same as those in effect in the Tulsa market. A correlation of the movement of prices in the two markets is necessary since certain of the Muskogee handlers compete with Tulsa handlers for supplies and sales. The use of the previous month's manufacturing values in determining the basic formula price for the current delivery period permits handlers to know their milk costs at the time of purchase and is consistent with the practice in the surrounding Federal order markets.

The differentials over the basic formula price for Class I milk under this order should be $1.45 per hundredweight during the months of April through June of each year, and $1.85 per hundredweight for the months of July through March.

These differentials are those which are now included in the Tulsa order. The supply areas for this market and for the Tulsa market overlap. Production conditions for the two markets are therefore similar. The quality of milk required by the local health ordinances in the two markets and demand conditions for milk are also similar. These similarities require that pricing arrangements for Class I milk in the two markets be identical. For this reason also, the same provision for preventing contra-seasonal movements in Class I prices is provided in this order as is contained in the Tulsa order.

For the 12-month period (December 1949–November 1950) ending with the month of the hearing the average class price which these differentials and basic formula prices would have produced would have been $5.06 per hundredweight. During the entire period the negotiated price of the Muskogee Market was $5.00 per hundredweight. Hence, had the Class I pricing method herein adopted been in effect in a recent period it would have resulted in prices at approximately the same annual level as those that were negotiated; there would, however, have been some seasonal variation in this level.

The price for Class II milk should be established on the average price paid for ungraded milk by a group of relatively large manufacturing plants in or near the milkshed. This method of arriving at the Class II price was proposed by the producers. Handlers offered no material objection to the method but did, however, propose alternatives to certain manufacturing plants selected by the proponents. The group of plants selected should be representative of the prices being paid for milk by manufacturing plants in the Muskogee milkshed, since Muskogee handlers have limited manufacturing facilities and milk which is in excess of the needs of the market for Class I use is at times sold to such outlets. The plants to be named as a basis for establishing the Class II price are those of the American Foods Company, Miami, Oklahoma, the Hawk Dairies, Tulsa, Oklahoma, the Muskogee Dairy Products Company, Muskogee, Oklahoma, and the Pet Milk Company, Siloam Springs, Arkansas.

The class prices determined for milk of 4.0 percent butterfat content should be adjusted by butterfat differentials to determine the value of milk of the actual butterfat content used by a handler in each class. The Class I butterfat differential should be based on 1.25 times the price of 92-score butter in the Chicago market and the Class II butterfat differential should be based on 1.15 times the price of 92-score butter in such market. These are the same butterfat differentials as are provided for in the Tulsa order and they will tend to maintain prices between the two markets in close relationship.

Provisions for making location adjustments in the prices paid producers for milk delivered to certain receiving plants and location allowances to handlers on milk moved to the marketing area from these plants should be provided.

There are four receiving stations which are operated by a Muskogee handler. They are located at Hugo, Miami, and Poteau, Oklahoma, and Fort Smith, Arkansas. At all of these plants Grade A milk is received, weighed, commingled and moved to the handler's Muskogee distributing plant or processed into manufactured products. In addition to the receiving operations the plants at Hugo, Miami and Fort Smith are distributing points for certain outlying markets served by the Muskogee handler.

With minor exceptions, this handler has not paid the same price for milk delivered to receiving stations as for milk delivered to his Muskogee plant. In some instances the prices paid producers delivering to the outlying plants have been aligned with prices paid by other purchases of milk in the locality and they have not, therefore, always been correlated with the price of milk for the primary market.

The purchases of milk at Hugo and Fort Smith are entirely incidental to the distribution activities of the handler in those areas and the level of prices that must be paid producers delivering to these points may be expected to be equal to or in excess of that for milk delivered to Muskogee. To provide location adjustments for milk received at Hugo and Fort Smith would apparently require the handler to pay premiums to meet the competitive prices for milk in these areas. It is probable that at Hugo premiums will be required in any event, as prices in that area are apparently usually substantially higher than at Muskogee.

The receipts of milk at Miami and Poteau appear to be more closely identified as a part of this handler's supply for general distribution. Location adjustments are provided with respect to these points. The adjustments provided at Miami will align Muskogee prices at that point with those of the Tulsa order. A Tulsa handler also receives milk at Miami and the distances from Miami to Tulsa and to Muskogee are comparable. The adjustment at Poteau is slightly less on the basis that Poteau is somewhat nearer Muskogee, so that less transportation costs are involved.

The adjustment credit to the handler should apply only to that milk received at these points which is moved to an approved plant in the marketing area in the form of milk, skim milk, or cream, so that it will be available for Class I use. The location adjustment to producers who deliver milk to the specified receiving stations should be at the same rate per hundredweight as the credit to handlers and should apply to all milk delivered by such producers.

7. It is concluded that a market-wide pool should be adopted.

Under the market-wide type of pool all producers would be entitled to receive a uniform price computed on the basis of the combined classification value of producer milk of all handlers. This type of pool contributes to the stability of the market in that it does not induce producers to shift between handlers; it does, however, facilitate shifting of producers in the event it becomes necessary to adjust supplies between handlers; and it will require all producers to share the burden of seasonal surpluses.

There was no opposition to the proposal for a market-wide pool and no evidence was offered that any different kind of pool should be adapted.

A base plan of distributing among producers the market returns for milk should be used in connection with the market-wide pool.

There is considerable seasonal variation in the production of milk for the Muskogee market, with production in the fall and winter months considerably less than that in the spring and summer months. The demand for fluid milk has much less seasonal variation but it is usually at the highest during the period of the year when production is at a low level. This situation results in seasonal shortages and burdensome surpluses of milk. Producers should, therefore, be encouraged to adjust their production pattern to conform more nearly to the demand for fluid milk.

Producers propose and handlers agree that a "base" plan which provides returns to each producer related directly to his delivery of milk during the normally low production months will encourage a more level production pattern for the market. A large seasonal increase in production is burdensome to the market because handlers have very limited manufacturing facilities and therefore dispose of a large portion of their surplus milk to manufacturing plants; also that producers supplying milk to handlers in Muskogee have operated under a similar plan for several years.

The plans proposed by producers would establish for each producer a daily base quantity of milk equal to his average daily deliveries of milk during October, November, December, January, and February of each year. During these months of establishing bases all producers would be paid the "pool" or uniform price for all deliveries. For all other months separate uniform prices for base milk and excess milk would be computed so that Class I sales would be first allocated to base milk. They also

proposed some modification of this plan to provide temporary bases for producers who begin deliveries to the market after the close of the period for establishing bases.

A base plan is designed to apportion the total value of the milk purchased by all handlers among producers on the basis of their marketing of milk during a representative period of production. The application of the base plan is intended to provide an incentive to alter production plans in accordance with the market demand for milk for fluid uses. For these purposes the plan to be adopted may logically be designed not only to influence the seasonal production patterns of regular producers but also to influence other producers to enter the market at the time of the year when new production is most needed to meet the demand for fluid uses.

A large degree of flexibility should be incorporated in the base plan without destroying the desired effectiveness. This may be accomplished in part by limiting the effective period of the bases to the months of highest production, the establishment of new bases by each producer each year during the months of lowest production and by providing for the payment of the uniform market-wide pool price to all producers during all months except those when bases are applicable. The months of October, November, December, and January appear to be those during which the lowest production has occurred, and should be the period for establishing bases. It does not appear that payments on the base plan need to be made during all the other months in order for the plan to operate effectively. Restricting payments on the base plan to the months of highest production (April, May and June) will provide more flexibility than the proposed plan and will allow the individual producer more time to make the necessary adjustments in his production program. Also payments on a uniform price for deliveries during the months of July through March will provide ample opportunity for new producers to enter the market and proportionately share in the returns before the period when payments are made on the base plan. Any new producers entering the market during the base paying period will share with all other producers any Class I milk utilization in excess of base milk.

Producers delivering milk to handlers in Muskogee proper have operated under a base plan for several years. The sentiment in the market in favor of a base plan is such that payments to producers should continue on such a plan without interruptions. Producers have been advised that their deliveries of milk to handlers beginning with the normally short production months of the fall of 1950 through January 1951 would be used for establishing bases in 1951. It is desirable to continue the operation of a base plan without interruptions. Therefore, it will be necessary to make an administrative determination of each producer's deliveries to handlers during the months of October, November, December 1950 and January 1951 in order to establish bases for producers during the first year of the order.

It is necessary to set forth certain rules in connection with the establishment and transfer of bases to provide reasonable administrative workability of the plan. To accomplish this purpose and to preserve the effectiveness of the base plan, transfers of bases should be limited to the entire bases of producers who may retire from farming, die or enter military service and to joint production arrangements such as a landlord-tenant relationship. Since the base plan is effective in determining producer payments in only three of the months of a year, and all producers must establish a new base each year, it does not appear necessary to include provisions other than those contained herein with respect to the establishment and transfer of bases.

8. Certain other provisions should be adopted in order to carry out administratively the purpose of the regulations.

(a) *Administrative assessments.* Each handler should be required to pay to the market administrator, as his pro rata share of the costs of administration of the order 4 cents per hundredweight, or such amount not exceeding 4 cents per hundredweight as the Secretary may from time to time prescribe, on receipts of (1) producer milk, and (2) other source milk classified as Class I milk.

The market administrator is required to verify the disposition of all milk received in order to properly determine the classification of producer milk. Therefore, a charge on receipts of other source used as Class I milk, as well as producer milk, will appropriately apportion the administrative expense among handlers. Application of the assessment to all other source milk received by a handler, regardless of use, could place some handlers at a disadvantage in utilizing for manufacture milk not regulated by the order.

The market administrator must have the necessary funds to enable him to administer properly the terms of the order. In view of the anticipated volume of milk on which the rate would apply, a maximum rate of 4 cents per hundredweight should be adopted to guarantee sufficient administrative income. In the event a lesser amount proves later to be sufficient for proper administration, provision is made to enable the Secretary to decrease the assessment without the necessity of amending the order. The act provides that such assessments shall be the means of financing the cost of administration.

(b) *Deductions for marketing services.* Provisions should be included for furnishing marketing services to producers who do not belong to a cooperative association which performs such services, and appropriate deductions should be made to cover the cost therefor. These services include sampling, testing, and checking the weights of producer milk and furnishing of market information by the market administrator. The proponents of the order proposed that 5 cents per hundredweight should be deducted from the payments to producers who are not members of a cooperative association to cover expenses in connection with the services to be rendered by the market administrator to such producers. The cost of performing the services will vary in accordance with the number of such producers, concentration of deliveries and the volume of milk involved. In view of the rate of assessments to cover such costs under other federal orders, a deduction for these services from payments to producers at the rate of 5 cents per hundredweight seems reasonably necessary to defray the cost of the services to be performed under this order. In the event that any qualified cooperative association of producers performs such services for its members, handlers will be required to make such deductions and to pay them to the cooperative association as are authorized by its members. Handlers should also be required to furnish each such cooperative association a statement showing the amount of deductions, and the amount and average butterfat content of milk for which deductions were computed for each member producer. This is necessary in order for the cooperative to know whether it is receiving the correct amounts as required by this provision.

(c) *Reports and records.* All accounting, reports, price computations and payments, are to be made on a monthly basis. The term "month" is used throughout the order in its ordinary and usual meaning as one of the twelve divisions of the calendar year. However, the use of this term within the text of the order shall not be construed to prevent the issuance by the Secretary of amendments to the orders to be effective on any day of a month.

Provisions are contained in the order to require handlers to maintain adequate records and to make reports with respect to receipts, utilization, and payments for milk. Such reports are necessary for the purpose of determining proper classification and payment for milk of producers.

Reports of receipts and utilization of milk should be filed not later than the 7th day after the end of the month to assure the announcement of a uniform price by the 12th day after the end of the month.

(d) *Audits.* The order should provide for the auditing of each handler's reports and records as one means of assuring that handlers are properly complying with the terms of the order. It is necessary during audit that the handler provide whatever facilities are necessary to verify reports or to ascertain the correct information regarding his receipts and utilization of milk and payments to producers.

(e) *Payments to producers.* Although it is provided that a uniform price should be computed only once a month, provision should be made for payment to producers semimonthly. Producers proposed an "advance" payment with respect to milk delivered during the first 15 days of the month to be made on or before the last of the month. Producers customarily have been paid twice a month and this practice should continue. Handlers offered no opposition to this method of making payment. Such advance payment should be made at not less than the rate of the Class II price for the preceding month. The final pay-

ment for each month should be made on or before the 15th day after the end of the month. Handlers are permitted to deduct advance payments from the money due producers on the 15th day after the end of the month. Dates for the filing of handler reports and for the computation and announcement of the uniform price have been scheduled in a manner which will permit handlers to make required payments both to producers, and the producer-settlement fund within the respective dates prescribed. Thus, a reasonably adequate time is allowed handlers for making final payments to producers.

(f) *Other Administrative provisions.* The other provisions of the order which are of a general administrative nature are found in all orders and are necessary for proper and efficient administration of the order. They provide for the selection of a market administrator, define his powers and duties, prescribe the information to be reported by handlers each month, set forth the rules to be followed by the market administrator in making computations required by the order. They also prescribe the length of time that records are to be retained and provide a plan for liquidation of the order in the event of its suspension or termination.

The proponents proposed that handlers be required to post with the market administrator a surety bond in the amount not exceeding twice the estimated amount of payments to be made to producers for any delivery period. They indicated that such a provision was desirable to insure payments to producers for milk priced under the order. Producers have, in the past, received payments for milk within the scheduled time without this protection. Milk price orders have not generally required the posting of a bond by regulated handlers and yet they have succeeded in giving reasonable assurance of payment to producers. There was no showing here that a special need existed for protecting producers beyond that afforded generally by a price order. Moreover, the determination of the adequacy of such a bond to cover all possible contingencies would place undue responsibility upon the market administrator. Therefore it is concluded that this proposed provision should not be adopted.

A "producer-handler" should be exempt from all the regulatory provisions of the order except that requiring the filing of reports as requested by the market administrator. The producer-handler is a person who operates a milk plant and handles only milk from his own production, and does not buy any milk from producers. In these respects his situation is different from that of other handlers. Because such persons frequently change their status, it is necessary for the market administrator to receive reports from such persons in order to verify their status and to supplement other market information.

The order should provide that a handler who, the Secretary determines to be disposing of the greater portion of his milk in another area subject to another Federal marketing order be partially exempt from provisions of this order. It would be impractical to regulate the same person under two different orders with respect to the same milk. It appears reasonable that the effective regulation should be that of the area in which such a person makes the greater portion of his sales. In order to insure equity between handlers, such a person should not be permitted to purchase milk for sale as Class I in either area at less than the price paid by regulated handlers of the area. Therefore it should be provided that if the price such handler is required to pay for Class I milk under the other order to which he is subject is less than the price provided in the proposed order, he should pay to the producer-settlement fund an amount equal to the difference between the two prices on all Class I milk disposed of within the area. Such persons should also be required to report to the market administrator regularly so that he may ascertain the amount of milk disposed of by such persons within the area.

The order should also provide for the retention of necessary records and the ultimate termination of obligations. The provisions with respect to these items are those which experience under other marketing orders has shown to be appropriate.

It was proposed that if a handler fails to make the required reports or payments, his name may be publicly announced by the market administrator, unless otherwise directed by the Secretary. This provision should be adopted since it will facilitate the enforcement of the terms of the order.

General findings. (a) The proposed marketing agreement and the order and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The proposed order will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Rulings on proposed findings and conclusions. Briefs were filed on behalf of the Muskogee Dairy Farmers Association, the Carnation Company of Oklahoma and the Roselawn Dairy.

The briefs contained statements of fact, proposed findings and conclusions, and arguments with respect to the provisions of the proposed order. Every point covered in the briefs was carefully considered along with the evidence in the record in making the findings and reaching the conclusions hereinbefore set forth. To the extent that the proposed findings and conclusions contained in the briefs are inconsistent with the findings and conclusions contained herein, the requests to make such findings or to reach such conclusions are denied on the basis of the facts found and stated in connection with conclusions in this recommended decision.

Recommended marketing agreement and order. The following order is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be identical with those contained in the recommended order.

DEFINITIONS

§ 929.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

§ 929.2 *Secretary.* "Secretary" means the Secretary of Agriculture or other officer or employee of the United States authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

§ 929.3 *Department.* "Department" means the United States Department of Agriculture or other Federal agency authorized to perform the price reporting functions specified in this part.

§ 929.4 *Person.* "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 929.5 *Cooperative association.* "Cooperative association" means any cooperative marketing association of producers which the Secretary determines (a) to be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," (b) to have full authority in the sale of milk of its members, and (c) to be engaged in making collective sales or marketing milk or its products for its members.

§ 929.6 *Muskogee, Oklahoma, marketing area.* "Muskogee, Oklahoma, marketing area," hereinafter called the marketing area, means all the territory lying within the boundaries of the cities of Muskogee, McAlester, and Tahlequah, Oklahoma.

§ 929.7 *Approved plant.* "Approved plant" means (a) any milk plant approved by any health authority having jurisdiction in the marketing area from which milk, skim milk, buttermilk, flavored milk, flavored milk drinks, or cream are disposed of for fluid consumption in the marketing area on wholesale or retail routes (including plant stores), or (b) any milk plant approved by any health authority having jurisdiction in the marketing area which serves as a receiving station by receiving, weighing, and commingling producer milk and from which such milk is normally transferred to a plant specified in paragraph (a) of this section.

§ 929.8 *Unapproved plant.* "Unapproved plant" means any milk manufacturing, processing, bottling, or distributing plant other than an approved plant.

§ 929.9 *Handler.* "Handler" means (a) any person in his capacity as the operator of an approved plant; or (b) any cooperative association with respect to the milk of any producer which it causes to be diverted to an unapproved plant for the account of such cooperative association.

§ 929.10 *Producer.* "Producer" means any person, other than a producer-handler, who produces milk which is received at an approved plant: *Provided,* That such milk is produced under a dairy farm inspection permit or inspection rating issued by any health authority having jurisdiction in the marketing area for the production of milk to be disposed of for consumption as Grade A milk. This definition shall include any such person who is regularly classified as a producer but whose milk is caused to be diverted by a handler to an unapproved plant, and milk so diverted shall be deemed to have been received at an approved plant by the handler who causes it to be diverted. This definition shall not include a person with respect to milk produced by him which is received at a plant operated by a handler who is subject to another Federal marketing order and who is partially exempt from the provisions of this part pursuant to § 929.61.

§ 929.11 *Producer milk.* "Producer milk" means all skim milk and butterfat in milk produced by a producer which is received by a handler either directly from producers or from other handlers.

§ 929.12 *Other source milk.* "Other source milk" means all skim milk and butterfat other than that contained in producer milk.

§ 929.13 *Producer-handler.* "Producer-handler" means any person who produces milk and operates an approved plant, but who receives no milk from producers.

§ 929.14 *Base milk.* "Base milk" means producer milk received by a handler during any of the months of April through June which is not in excess of each producer's daily average base computed pursuant to § 929.90 multiplied by the number of days in such month for which the handler received milk from the producer.

§ 929.15 *Excess milk.* "Excess milk" means producer milk received by a handler during any of the months of April through June which is in excess of base milk received from each producer during such month, and shall include all milk received from producers for whom no daily average base can be computed pursuant to § 929.90.

MARKET ADMINISTRATOR

§ 929.20 *Designation.* The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 929.21 *Powers.* The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 929.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to the following:

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of funds provided by § 929.88 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 929.87) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(g) Audit all reports and payments by each handler by inspection of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk or butterfat for such handler depends;

(h) Publicly announce, at his discretion, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, within 10 days after the day upon which he is required to perform such acts, has not:

(1) Made reports pursuant to §§ 929.30 through 929.32;

(2) Maintained adequate records and facilities pursuant to § 929.33; or

(3) Made payments pursuant to §§ 929.80 through 929.88;

(i) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report, the milk received shall be prorated to each class in the proportion that the total receipts of producer milk by such handler were used in each class;

(j) Publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate the prices determined for each month as follows:

(1) On or before the 5th day of each month the minimum prices for Class I milk pursuant to § 929.51 (a) and the Class I butterfat differential pursuant to § 929.52 (a), both for the current month; and the minimum price for Class II milk pursuant to § 929.51 (b) and the Class II butterfat differential pursuant to § 929.52 (b), both for the preceding month; and

(2) On or before the 12th day of each month, the uniform price(s) computed pursuant to § 929.71 or § 929.72, as applicable, and the butterfat differential computed pursuant to § 929.82, both applicable to milk delivered during the preceding month; and

(k) Prepare and disseminate to the public such statistics and other information as he deems advisable and as do not reveal confidential information.

REPORTS, RECORDS, AND FACILITIES

§ 929.30 *Reports of receipts and utilization.* On or before the 7th day after the end of each month, each handler, except a producer-handler, shall report to the market administrator in detail and on forms prescribed by the market administrator as follows:

(a) The quantities of skim milk and butterfat contained in milk received from producers, and, for the months of April through June, the aggregate quantities of base milk and excess milk;

(b) The quantities of skim milk and butterfat contained in (or used in the production of) receipts from other handlers;

(c) The quantities of skim milk and butterfat contained in receipts of other source milk (except Class II products disposed of in the form in which received without further processing or packaging by the handler);

(d) The utilization of all skim milk and butterfat required to be reported pursuant to this section;

(e) The disposition of Class I products on routes wholly outside the marketing area; and

(f) Such other information with respect to receipts and utilization as the market administrator may prescribe.

§ 929.31 *Reports of payments to producers.* On or before the 20th day of each month, each handler shall submit to the market administrator his producer payroll for deliveries of the preceding month which shall show:

(a) The total pounds of milk received from each producer and cooperative association, the total pounds of butterfat contained in such milk and the number of days on which milk was received from such producers, including for the months of April through June such producer's deliveries of base and excess milk;

(b) The amount of payment to each producer and cooperative association; and

(c) The nature and amount of any deductions or charges involved in such payments.

§ 929.32 *Other reports.* (a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler who causes milk to be diverted to an unapproved plant shall, prior to such diversion, report to the market administrator and to the cooperative association of which such producer is a member, of his intention to divert such milk, the proposed date or dates of such diversion, and the plant to which such milk is to be diverted.

(c) Upon request of the market administrator, each handler shall report the information described in paragraph (a) of § 929.31, together with such other information as the market administrator may prescribe for prior calendar months included in the period beginning with October 1950 to the effective date of this part.

§ 929.33 *Records and facilities.* Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipts and utilization of all receipts of producer milk and other source milk;

(b) The weights and tests for butterfat and other content of all milk, skim milk, cream and milk products handled;

(c) Payments to producers and cooperative associations; and

(d) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream and milk products on hand at the beginning and end of each month.

§ 929.34 *Retention of records.* All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: *Provided,* That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly, upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 929.40 *Basis of classification.* All skim milk and butterfat received within the month by a handler and which is required to be reported pursuant to § 929.30 shall be classified by the market administrator pursuant to the provisions of §§ 929.41 through 929.46.

§ 929.41 *Classes of utilization.* Subject to the conditions set forth in §§ 929.43 and 929.44, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat disposed of in fluid form as milk, skim milk, buttermilk, flavored milk, flavored milk drinks, cream, cultured sour cream, and any other product required by the appropriate health authority of the City of Muskogee, Oklahoma, to be made from Grade A milk, and all skim milk and butterfat not specificially accounted for under paragraph (b) of this section.

(b) Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than those specified in paragraph (a) of this section; (2) disposed of for livestock feed; (3) in shrinkage allocated to receipts of milk from producers, but not in excess of 2 percent of such receipts of skim milk and butterfat, (4) in shrinkage allocated to receipts of other source milk; and (5) in inventory variations of milk, skim milk, cream, or any Class I product.

§ 929.42 *Shrinkage.* The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat for each handler; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat in producer milk and in other source milk.

§ 929.43 *Responsibility of handlers and reclassification of milk.* All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise.

§ 929.44 *Transfers.* Skim milk or butterfat disposed of by a handler either by transfer or diversion shall be classified:

(a) As Class I milk if transferred or diverted in the form of milk, skim milk or cream, to the approved plant of another handler (except a producer-handler) unless utilization in Class II is mutually indicated in writing to the market administrator by both handlers on or before the 7th day after the end of the month within which such transaction occurred: *Provided,* That the skim milk or butterfat so assigned to Class II shall be limited to the amount thereof remaining in Class II in the plant of the transferee-handler after the subtraction of other source milk pursuant to § 929.46 and any additional amounts of such skim milk or butterfat shall be assigned to Class I: *And provided further,* That if either or both handlers have received other source milk, the skim milk or butterfat so transferred or diverted shall be classified at both plants so as to allocate the greatest possible Class I utilization to producer milk.

(b) As Class I milk if transferred or diverted in the form of milk, skim milk or cream to a producer-handler.

(c) As Class I milk if transferred or diverted in the form of milk or skim milk to an unapproved plant located more than 185 miles from the approved plant by the shortest highway distance as determined by the market administrator.

(d) As Class I milk if transferred in the form of cream under Grade A certification to an unapproved plant located more than 185 miles from an approved plant by the shortest highway distance as determined by the market administrator, and as Class II milk if so transferred without Grade A certification.

(e) As Class I milk, if transferred or diverted in the form of milk, skim milk or cream to an unapproved plant located less than 185 miles from the approved plant by the shortest highway distance as determined by the market administrator from which transferred or diverted, unless the market administrator is permitted to audit the records of receipts and utilization at such unapproved plant, in which case the classification of all skim milk and butterfat received at such unapproved plant shall be determined and the skim milk and butterfat transferred or diverted from the approved plant shall be allocated to the highest use remaining after subtracting, in series beginning with Class I milk, receipts of skim milk and butterfat at such unapproved plant directly from dairy farmers who the market administrator determines constitute the regular source of supply for fluid usage of such unapproved plant in markets supplied by such plant.

§ 929.45 *Computation of the skim milk and butterfat in each class.* For each month, the market administrator shall correct for mathematical and for other obvious errors the monthly report submitted by each handler and shall compute the pounds of skim milk and butterfat in Class I milk and Class II milk for such handler.

§ 929.46 *Allocation of skim milk and butterfat classified.* After making the computations pursuant to § 929.45, the market administrator shall determine the classification of milk received from producers as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk determined pursuant to § 929.41 (b) (3);

(2) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk: *Provided,* That if the receipts of skim milk in other source milk are greater than the remaining pounds of skim milk in Class II, an amount equal to the difference shall be subtracted from the pounds of skim milk in Class I;

(3) Subtract from the remaining pounds of skim milk in each class the skim milk received from other handlers according to its classification as determined pursuant to § 929.44 (a);

(4) Add to the remaining pounds of skim milk in Class II the pounds of skim

milk subtracted pursuant to subparagraph (1) of this paragraph; and

(5) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk received from producers, subtract such excess from the remaining pounds of skim milk in series beginning with Class II milk. Any amount so subtracted shall be called "overage."

(b) Butterfat shall be allocated in accordance with the same procedure outlined for skim milk in paragraph (a) of this section.

(c) Determine the weighted average butterfat content of Class I and Class II milk computed pursuant to paragraphs (a) and (b) of this section.

MINIMUM PRICES

§ 929.50 *Basic formula price.* The basic formula price to be used in determining the price per hundredweight of Class I milk shall be the highest of the prices computed pursuant to paragraphs (a) and (b) of this section and § 929.51 (b) for the preceding month.

(a) The average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department, divided by 3.5 and multiplied by 4.0:

Present Operator and Location

Borden Co., Mount Pleasant, Mich.
Carnation Co., Sparta, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopersville, Mich.
Borden Co., Greenville, Wis.
Borden Co., Black Creek, Wis.
Borden Co., Orfordville, Wis.
Borden Co., New London, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Jefferson, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Belleville, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(b) The price per hundredweight computed by adding together the plus values pursuant to subparagraphs (1) and (2) of this paragraph:

(1) From the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the Department during the month, subtract 3 cents, add 20 percent thereof, and multiply by 4.0.

(2) From the simple average as computed by the market administrator of the weighted averages of carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f. o. b. manufacturing plants in the Chicago area as published for the period from the 26th day of the proceding month through the 25th day of the current month by the Department, deduct 5.5 cents, multiply by 8.5 and then multiply by 0.96.

§ 929.51 *Class prices.* Subject to the provisions of §§ 929.52 and 929.53, the minimum prices per hundredweight to be paid by each handler for milk received at his plant from producers during the month shall be as follows:

(a) *Class I milk.* The price for Class I shall be the basic formula price plus $1.45 for the months of April, May, and June, and plus $1.85 for all other months: *Provided,* That for each of the months of September, October, November, and December, such price shall not be less than that for the preceding month, and that for each of the months of April, May, and June, such price shall not be more than that for the preceding month.

(b) *Class II milk.* The average of the basic or field prices reported to have been paid or to be paid for ungraded milk of 4.0 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department:

Present Operator and Location

American Foods Co., Miami, Okla.
Hawk Dairies, Tulsa, Okla.
Muskogee Dairy Products Co., Muskogee, Okla.
Pet Milk Co., Siloam Springs, Ark.

§ 929.52 *Butterfat differentials to handlers.* If the average butterfat content of the milk of any handler allocated to any class pursuant to § 929.46 is more or less than 4.0 percent, there shall be added to the respective class price, computed pursuant to § 929.51, for each one-tenth of 1 percent that the average butterfat content of such milk is above 4.0 percent or subtracted for each one-tenth of 1 percent that such average butterfat content is below 4.0 percent an amount equal to the butterfat differential computed by multiplying the simple average, as computed by the market administrator, of the daily wholesale selling price per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter at Chicago as reported by the Department during the appropriate month by the applicable factor listed below and dividing the result by 10:

(a) *Class I milk.* Multiply such price for the preceding month by 1.25;

(b) *Class II milk.* Multiply such price for the current month by 1.15.

§ 929.53 *Location adjustment credit to handlers.* For that portion of milk which (a) is received directly from producers at an approved plant described in § 929.7 (b) which is located at Poteau, or Miami, Oklahoma; and (b) is moved to an approved plant in the marketing area in the form of milk, skim milk, or cream, the prices specified in § 929.51 shall be subject to a location adjustment credit to the handler, computed as follows:

Location of plant:	*Cents per hundredweight*
Poteau, Okla	21
Miami, Okla	23

APPLICATION OF PROVISIONS

§ 929.60 *Producer-handlers.* Sections 929.40 through 929.46, 929.50 through 929.53, 929.70 through 929.72, 929.80 through 929.88, 929.90 and 929.91, shall not apply to a producer-handler.

§ 929.61 *Milk priced under other Federal orders.* In case skim milk or butterfat which is priced under another Federal milk marketing agreement or order issued pursuant to the act is disposed of as Class I milk in the marketing area on a route operated by or for a person subject to regulation as a handler as defined in such other agreement or order, the provisions of this part shall not apply except as follows:

(a) The handler shall, with respect to his total receipts of skim milk and butterfat make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(b) If the price which such handler is required to pay under the other Federal order to which he is subject for skim milk and butterfat which would be classified as Class I milk under this part is less than the price provided by this part, such handler shall pay to the market administrator for deposit into the producer-settlement fund (with respect to all skim milk and butterfat disposed of as Class I milk within the marketing area) an amount equal to the difference between the value of such skim milk or butterfat as computed pursuant to this part and its value as determined pursuant to the other order to which he is subject.

DETERMINATION OF UNIFORM PRICE

§ 929.70 *Computation of value of milk.* The value of milk received during each month by each handler from producers shall be a sum of money computed by the market administrator by multiplying the pounds of such milk in each class by the applicable class prices, adding together the resulting amounts and deducting therefrom the values of all location adjustments computed at the applicable rates set forth in § 929.53: *Provided,* That if the handler had overage of either skim milk or butterfat, there shall be added to the above values an amount computed by multiplying the pounds of overage deducted from each class pursuant to § 929.46 by the applicable class prices.

§ 929.71 *Computation of uniform prices.* For each of the months of July through March the market administrator shall compute the uniform prices per hundredweight for milk of 4.0 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 929.70 for all handlers who made the reports prescribed in § 929.30 and who made the payments pursuant to §§ 929.80 and 929.84 for the preceding month;

(b) Add the aggregate of the values of all allowable location adjustments to producers pursuant to § 929.81;

(c) Add not less than one-half of the cash balance on hand in the producer-settlement fund less the total amount of the contingent obligations to handlers pursuant to § 929.85;

(d) Subtract if the average butterfat content of the milk included in these computations is greater than 4.0 percent,

or add if such average butterfat content is less than 4.0 percent an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential computed pursuant to § 929.82 and multiplying the resulting figure by the total hundredweight of such milk;

(e) Divide the resulting amount by the total hundredweight of milk included in these computations; and

(f) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (e) of this section. The resulting figure shall be the uniform price for milk of 4.0 percent butterfat content received from producers.

§ 929.72 *Computation of uniform prices for base milk and excess milk.* For each of the months of April through June the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 4.0 percent butterfat content, as follows:

(a) Combine into one total the values computed pursuant to § 929.70 for all handlers who made the reports prescribed in § 929.30 and who made the payments pursuant to §§ 929.80 and 929.84 for the preceding month;

(b) Add the aggregate of the values of all allowable location adjustments to producers pursuant to § 929.81;

(c) Add not less than one-half of the cash balance in the producer-settlement fund less the total amount of the contingent obligations to handlers pursuant to § 929.85:

(d) Subtract if the average butterfat content of the milk included in these computations is greater than 4.0 percent, or add if such average butterfat content is less than 4.0 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential computed pursuant to § 929.82 and multiplying the resulting figure by the total hundredweight of such milk;

(e) Compute the total value on a 4.0 percent butterfat basis of excess milk included in these computations by multiplying the hundredweight of such milk not in excess of the total quantity of Class II milk included in these computations by the price for Class II milk of 4.0 percent butterfat content, multiplying the hundredweight of such milk in excess of the total hundredweight of such Class II milk by the price for Class I milk of 4.0 percent butterfat content, and adding together the resulting amounts;

(f) Divide the total value of excess milk obtained in paragraph (e) of this section by the total hundredweight of such milk, and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 4.0 percent butterfat received from producers.

(g) Subtract the value of excess milk obtained in paragraph (e) of this section from the value of all milk obtained in paragraph (d) of this section and adjust by any amount involved in adjusting the uniform price of excess milk to the nearest cent;

(h) Divide the amount obtained in paragraph (g) of this section by the total hundredweight of base milk included in these computations; and

(i) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (h) of this section. The resulting figure shall be the uniform price for base milk of 4.0 percent butterfat content received from producers.

PAYMENTS

§ 929.80 *Time and method of payment.* Each handler shall make payment to producers as follows:

(a) On or before the 15th day after the end of the month during which the milk was received, to each producer (1) at not less than the uniform price computed pursuant to § 929.71 for all milk received from such producer if such preceding month was any of the months of July through March, or (2) at not less than the uniform price for base milk computed pursuant to § 929.72, with respect to base milk received from such producer, and at not less than the uniform price for excess milk computed pursuant to § 929.72 with respect to excess milk received from such producer, if such preceding month was any of the months of April through June, in each case adjusted by the butterfat differential computed pursuant to § 929.82, subject to location adjustments to producers pursuant to § 929.81, less the amount of the payment made pursuant to paragraph (b) of this section: *Provided*, That with respect to producers whose milk was caused to be delivered to such handler by a cooperative association which is authorized to collect payment for such milk, the handler shall, if the cooperative association so requests, pay such cooperative association, on or before the 13th day after the end of the month, an amount equal to the sum of the individual payments payable to such producers in accordance with this paragraph: *And provided further*, That if such handler has not received full payment for such month pursuant to § 929.85, he may reduce his total payments to all producers uniformly by not more than the amount of the reduction in payments from the market administrator; and the handler shall after receipt of such payment from the market administrator complete the payments to those producers not later than the date for making payments pursuant to this paragraph next following after receipt of the balance from the market administrator.

(b) On or before the last day of each month, each handler shall make payment for milk received from producers during the first 15 days of the month to each producer at not less than the Class II price for the preceding month: *Provided*, That with respect to producers whose milk was caused to be delivered to such handler by a cooperative association, which is authorized to collect payments for such milk, if the cooperative association so requests, the handler shall pay such cooperative association an amount equal to the sum of the individual payments otherwise payable to such producers in accordance with this paragraph.

§ 929.81 *Location adjustments to producers.* In making payments to producers pursuant to § 929.80, a handler may deduct per hundredweight of milk received from producers at an approved plant described in § 929.7 (b) which is located at Poteau, or Miami, Oklahoma, the applicable amounts set forth below:

Location of plant:	*Cents per hundredweight*
Poteau, Okla.	21
Miami, Okla.	23

§ 929.82 *Producer-butterfat differential.* In making payments pursuant to § 929.80, there shall be added to or subtracted from the uniform price for each one-tenth of 1 percent that the average butterfat content of the milk received from the producer is above or below 4.0 percent, an amount computed by multiplying by 1.2 the simple average as computed by the market administrator of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter at Chicago as reported by the Department during the month, dividing the resulting sum by 10, and rounding to the nearest one-tenth of a cent.

§ 929.83 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit all payments made by handlers pursuant to §§ 929.61 (b), 929.84 and 929.86, and out of which he shall make all payments to handlers pursuant to §§ 929.85 and 929.86.

§ 929.84 *Payments to the producer-settlement fund.* On or before the 13th day after the end of the month during which the milk was received, each handler, including a cooperative association which is a handler, shall pay to the market administrator the amount, if any, by which the value of the milk received by such handler from producers as determined pursuant to § 929.70 is greater than the amount required to be paid producers by such handler pursuant to § 929.80, or any amount required pursuant to § 929.61 (b).

§ 929.85 *Payments out of the producer-settlement fund.* On or before the 14th day after the end of the month during which the milk was received, the market administrator shall pay to each handler, including a cooperative association which is a handler, the amount, if any, by which the value of the milk received by such handler from producers during the month as determined pursuant to § 929.70 is less than the amount required to be paid producers by such handler pursuant to § 929.80: *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. No handler who has not received the balance of such

payment from the market administrator shall be considered in violation of § 929.80 if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund. The handler shall complete such payments to producers not later than the date for making such payments next following after the receipt of the balance from the market administrator.

§ 929.86 *Adjustment of accounts.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due (a) the market administrator from such handler; (b) such handler from the market administrator; or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which error occurred.

§ 929.87 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 929.80, shall deduct 5 cents per hundredweight or such amount not exceeding 5 cents per hundredweight as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such moneys shall be used by the market administrator to sample, test, and check the weights of milk received and to provide producers with market information.

(b) In the case of producers for whom a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers on or before the 15th day after the end of each month pay such deduction to the cooperative association of which such producers are members accompanied by a statement showing the amount of any such deductions and the amount and average butterfat test of milk for which such deduction was computed for each producer. In lieu of such statement a handler may authorize the market administrator to furnish such cooperative association the information with respect to such producers reported pursuant to § 929.31.

§ 929.88 *Expenses of administration.* As his pro rata share of the expense of administration of this part, each handler shall pay to the market administrator on or before the 15th day after the end of the month, 4 cents per hundredweight, or such amount not exceeding 4 cents per hundredweight as the Secretary may prescribe, with respect to all receipts within the month of (a) other source milk which is classified as Class I milk, and (b) milk from producers including such handler's own production.

§ 929.89 *Termination of obligation.* The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation:

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and,

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obigation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records, pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

DETERMINATION OF BASE

§ 929.90 *Computation of daily average base for each producer.* For the months of April through June of each year the market administrator shall compute a daily average base for each producer as follows, subject to the rules set forth in § 929.91:

(a) Divide the total pounds of milk received by a handler(s) from such producer during the months of October through January immediately preceding by the number of days not to be less than ninety, of such producer's delivery in such period.

§ 929.91 *Base rules.* (a) A base shall apply to deliveries of milk by the producer for whose account that milk was delivered during the base forming period;

(b) Bases may be transferred by notifying the market administrator in writing on or before the last day of any applicable base paying month that such base is to be transferred to the person named in such notice only as follows:

(1) In the event of the death, retirement, or entry into military service of a producer the entire base may be transferred to a member(s) of such producer's immediate family who carries on the dairy herd operations.

(2) If a base is held jointly and such joint holding is terminated, the entire base may be transferred to one of the joint holders.

(c) A producer who ceases to deliver milk to a handler for more than 45 consecutive days shall forfeit his base.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 929.100 *Effective time.* The provisions of this part or any amendment to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 929.101.

§ 929.101 *Suspension or termination.* The Secretary may suspend or terminate this part or any provison of this part whenever he finds this part or any provision of this part obstructs or does not tend to effectuate the declared policy of the act. This part shall terminate in any event whenever the provisions of the act authorizing it cease to be in effect.

§ 929.102 *Continuing power and duty of the market administrator.* If, upon the suspension or termination of any or all provisions of this part, there are any obligations thereunder, the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 929.103 *Liquidation.* Upon the suspension or termination of the provisions of this part, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall if so directed by the Secretary liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all

assets, books and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 929.110 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 929.111 *Separability of provisions.* If any provision of this part or its application to any person or circumstances, is held invalid, the application of such provision and the remaining provisions of this part, to other persons or circumstances, shall not be affected thereby.

Filed at Washington, D. C., this 27th day of March 1951.

[SEAL] JOHN I. THOMPSON,
Assistant Administrator.

[F. R. Doc. 51-3885; Filed, Mar. 29, 1951; 8:57 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA

CLASSIFICATION ORDER

MARCH 16, 1951.

1. Pursuant to the authority delegated to me by the Director, Bureau of Land Management, by Order No. 427 dated August 16, 1950, I hereby classify under the Small Tract Act of June 1, 1938 (52 Stat. 609), as amended July 14, 1945 (59 Stat. 467, 43 U. S. C. 632a), as hereinafter indicated, the following described land in the Los Angeles, California, land district, embracing approximately 380 acres.

CALIFORNIA SMALL TRACT CLASSIFICATION NO. 267

For lease and sale for homesites only:
T. 9 N., R. 2 W., S. B. M.,
Sec. 7, S½NE¼SE¼ and Lots 2, 3 and 4.

Leases for tracts in Lots 2, 3 and 4 will be issued to conform with the supplemental plat that has been prepared dividing the irregular areas into numbered tracts.

The lands are situated adjacent to the Town of Barstow, California, a rapidly growing desert town with a present population of about 7,000. There is a strong demand in the area for small homesites, and the nearness of this land to a thriving town makes the land very desirable for homesite leases. In the Town of Barstow can be found all of the usual community services.

2. As to applications regularly filed prior to 9:00 a. m., September 14, 1950, and are for the type of site for which the land is classified, this order shall become effective upon the date it is signed.

3. As to the land not covered by applications referred to in paragraph 2, this order shall not become effective to permit leasing under the Small Tract Act until 10:00 a. m., May 18, 1951. At that time such land shall, subject to valid existing rights, become subject to applications as follows:

(a) Ninety-day preference period for qualified veterans of World War II from 10:00 a. m., May 18, 1951, to close of business on August 16, 1951.

(b) Advance period for veterans' simultaneous filings from 9:00 a. m., September 14, 1950, to 10:00 a. m., May 18, 1951.

4. Any of the land remaining unappropriated shall become subject to application under the Small Tract Act by the public generally, commencing at 10:00 a. m., August 17, 1951.

(a) Advance period for simultaneous nonpreference filings from 9:00 a. m., September 14, 1950, to 10:00 a. m., August 17, 1951.

5. Applications filed within the periods mentioned in paragraphs 3 (b) and 4 (a) will be treated as simultaneously filed.

A veteran shall accompany his application with a complete photostatic, or other copy (both sides), of his certificate of honorable discharge, or of an official document of his branch of the service which shows clearly his honorable discharge as defined in § 181.36 of Title 43 of the Code of Federal Regulations, or constitutes evidence of other facts upon which the claim for preference is based and which shows clearly the period of service. Other persons claiming credit for service of veterans must furnish like proof in support of their claims. Persons asserting preference rights, through settlement or otherwise, and those having equitable claims, shall accompany their application by duly corroborated statements in support thereof, setting forth in detail all facts relevant to their claims.

6. The tracts in the S½NE¼, N½SE¼ and Lots 2 and 3 contain approximately 1¼ acres and are 165 by 330 feet, the longer dimension to extend east and west. The tracts in Lot 4 and the S½SE¼ contain approximately 2½ acres and are 330 by 330 feet.

7. Preference right leases referred to in paragraph 2 will be issued for the land described in the application irrespective of the direction of the tract, provided the tract conforms to or is made to conform to the area and the dimension specified in paragraph 6.

8. Leases will be for a period of three years at an annual rental of $5.00 payable for the entire lease period in advance of the issuance of the lease. Leases will contain an option to purchase clause at the appraised values listed below, and applications to purchase may be filed at or after the expiration of one year from date the lease is issued:

Lot 2 and S½NE¼—Appraised at $90 per acre.
Lot 3 and N½SE¼—Appraised at $75 per acre.
Lot 4 and S½SE¼—Appraised at $50 per acre.

9. Leases will be subject to all existing rights-of-way and to the new location of a road to extend north and south about 330 feet east of the center line of the section. They will also be subject to rights-of-way not exceeding 33 feet in width along or near the edges thereof for road purposes and public utilities. Such rights-of-way may be utilized by the Federal Government, or the State, county or municipality in which the tract is situated, or by any agency thereof. The rights-of-way may, in the discretion of the authorized officer of the Bureau of Land Management, be definitely located prior to the issuance of the patent. If not so located, they may be subject to location after patent is issued.

Leases for tracts in Lot 2 of Section 7 will also be subject to the existing right-of-way of the Southern California Water Company for a water distribution plant and pipelines.

10. All inquiries relating to these lands should be addressed to the Manager, Land Office, Los Angeles, California.

L. T. HOFFMAN,
Regional Administrator.

[F. R. Doc. 51-3851; Filed, Mar. 29, 1951; 8:47 a. m.]

CALIFORNIA

SMALL TRACT CLASSIFICATION ORDER NO. 262

MARCH 15, 1951.

California Small Tract Classification Order No. 262, dated March 2, 1951 (16 F. R. 2194), is hereby corrected by deleting therefrom the lands described below for the reason that these lands are embraced in pending applications that prevent their classification at this time:

T. 6 N., R. 8 W., S. B. M., Sec. 2, NW¼SE¼.
T. 8 N., R. 10 W., S. B. M., Sec. 23, W½SW¼.
T. 7 N., R. 11 W., S. B. M., Sec. 35, E½SE¼.

J. H. FAVORITE,
Acting Regional Administrator.

[F. R. Doc. 51-3852; Filed, Mar. 29, 1951; 8:47 a. m.]

NEVADA

CLASSIFICATION ORDER

MARCH 9, 1951.

1. Pursuant to the authority delegated to me by the Director, Bureau of Land Management, by Order No. 427 dated August 16, 1950, I hereby classify under the Small Tract Act of June 1, 1938 (52 Stat. 609), as amended July 14, 1945 (59 Stat. 467, 43 U. S. C. 632a), as herein-

after indicated, the following described land in the Nevada land district, embracing approximately 40 acres.

NEVADA SMALL TRACT CLASSIFICATION NO. 69

For lease and sale for home sites only:

T. 20 N., R. 19 E., M. D. M.,
Sec. 27, SW¼NW¼.

The land is located 2 miles northwest of the City of Reno, Nevada, and can be reached over U. S. Highway 395. Climate is semi-arid, with temperatures mild in summer and moderately severe in winter. The City of Reno possesses all of the usual community services.

2. As to applications regularly filed prior to 9:30 a. m., February 12, 1951, and are for the type of site for which the land is classified, this order shall become effective upon the date it is signed.

3. As to the land not covered by applications referred to in paragraph 2, this order shall not become effective to permit leasing under the Small Tract Act until 10:00 a. m., May 11, 1951. At that time such land shall, subject to valid existing rights, become subject to application as follows:

(a) Ninety-day preference period for qualified veterans of World War II from 10:00 a. m., May 11, 1951, to close of business on August 9, 1951.

(b) Advance period for veterans' simultaneous filings from 9:30 a. m., February 12, 1951, to 10:00 a. m., May 11, 1951.

4. Any of the land remaining unappropriated shall become subject to application under the Small Tract Act by the public generally, commencing at 10:00 a. m., August 10, 1951.

(a) Advance period for simultaneous nonpreference filings from 9:30 a. m., February 12, 1951, to 10:00 a. m., August 10, 1951.

5. Applications filed within the periods mentioned in paragraphs 3 (b) and 4 (a) will be treated as simultaneously filed.

A veteran shall accompany his application with a complete photostatic, or other copy (both sides), of his certificate of honorable discharge, or of an official document of his branch of the service which shows clearly his honorable discharge as defined in § 181.36 of Title 43 of the Code of Federal Regulations, or constitutes evidence of other facts upon which the claim for preference is based and which shows clearly the period of service. Other persons claiming credit for service of veterans must furnish like proof in support of their claims. Persons asserting preference rights, through settlement or otherwise, and those having equitable claims, shall accompany their application by duly corroborated statements in support thereof, setting forth in detail all facts relevant to their claims.

6. All of the land will be leased in tracts of approximately 5 acres, each being approximately 330 by 660 feet, the longer dimension to extend east and west.

7. Preference right leases referred to in paragraph 2 will be issued for the land described in the application irrespective of the direction of the tract, provided the tract conforms to or is made to conform to the area and the dimension specified in paragraph 6.

8. Where only one 5-acre tract in a 10-acre subdivision is embraced in a preference right application, an application for the remaining 5-acre tract extending in the same direction will be accepted in order to fill out the subdivision notwithstanding the direction specified in paragraph 6.

9. Leases will be for a period of three years at an annual rental of $5.00 payable for the entire lease period in advance of the issuance of the lease. Leases will contain an option to purchase clause at the appraised value of $15.00 per acre, application for which may be filed at or after the expiration of one year from date the lease is issued.

10. Tracts will be subject to all existing rights-of-way and to rights-of-way not exceeding 33 feet in width along or near the edges thereof for road purposes and public utilities. Such rights-of-way may be utilized by the Federal Government, or the State, county or municipality in which the tract is situated, or by any agency thereof. The rights-of-way may, in the discretion of the authorized officer of the Bureau of Land Management, be definitely located prior to the issuance of the patent. If not so located, they may be subject to location after patent is issued.

11. All inquiries relating to these lands should be addressed to the Manager, Nevada Land and Survey Office, Reno, Nevada.

J. H. FAVORITE,
Acting Regional Administrator.

[F. R. Doc. 51-3853; Filed, Mar 29, 1951; 8:48 a. m.]

ALASKA

SHORE SPACE RESTORATION NO. 456

MARCH 22, 1951.

By virtue of the authority contained in the act of June 5, 1920 (41 Stat. 1059, 48 U. S. C. 372), and in accordance with 43 CFR 4.275 (56) (Departmental Order No. 2325 of May 24, 1947, 12 F. R. 3566), and Order No. 319 of July 19, 1948 (43 CFR 50.451, 13 F. R. 4278), it is hereby determined that the lands described below are not necessary for harborage uses and purposes and that no shorespace reserve in such lands shall now or hereafter be created under the act of May 14, 1898 (30 Stat. 409), as amended by the act of March 3, 1903 (32 Stat. 1028, 48 U. S. C. 371) by the initiation of claims under the public land laws:

SEWARD MERIDIAN

T. 12 N., R. 3 W.,
Sec. 30: SE¼SW¼, Lots 3, 4.
Sec. 31: NE¼NE¼, Lots 1, 2, 3.
T. 12 N., R. 4 W.,
Sec. 25: SW¼NE¼, NE¼NW¼, Lots 1, 2, 3, 4.

LOWELL M. PUCKETT,
Regional Administrator.

[F. R. Doc. 51-3854; Filed, Mar. 29, 1951; 8:48 a. m.]

ALASKA

SHORE SPACE RESTORATION NO. 457

MARCH 22, 1951.

By virtue of the authority contained in the act of June 5, 1920 (41 Stat. 1059, 48 U. S. C. 372), and in accordance with 43 CFR 4.275 (56) (Departmental Order No. 2325 of May 24, 1947, 12 F. R. 3566), and Order No. 319 of July 19, 1948 (43 CFR 50.451, 13 F. R. 4278), it is hereby determined that the lands described below are not necessary for harborage uses and purposes and that no shorespace reserve in such lands shall now or hereafter be created under the act of May 14, 1898 (30 Stat. 409), as amended by the act of March 3, 1903 (32 Stat. 1028, 48 U. S. C. 371) by the initiation of claims under the public land laws:

SEWARD MERIDIAN

T. 12 N., R. 3 W.,
Sec. 32: NE¼NW¼, SW¼NE¼, Lot 2 (embracing the original and additional homestead entries of W. H. Hancock, Anchorage 011585/012002/012799), containing approximately 139.51 acres.
T. 12 N., R. 4 W.,
Sec. 15: E½SE¼ (embracing the homestead entry of Milton W. Wyatt, Anchorage 012376), containing 80 acres.
Sec. 23: SW¼NE¼, Lots 1, 3 (embracing the homestead entry of Junior I. Johnson, Anchorage 018113), containing approximately 149.61 acres.
A tract of land located on Zimovia Straits identified as Lot Y, U. S. Survey 2321 containing approximately 4.72 acres (Home site Application of Wilhelm Jordan Anchorage 015108).

The above described lands aggregate approximately 373.84 acres.

LOWELL M. PUCKETT,
Regional Administrator.

[F. R. Doc 51-3855; Filed, Mar. 29, 1951; 8:48 a. m.]

ALASKA

SHORE SPACE RESTORATION NO. 458

MARCH 22, 1951.

By virtue of the authority contained in the act of June 5, 1920 (41 Stat. 1059, 48 U. S. C. 372), and in accordance with 43 CFR 4.275 (56) (Departmental Order No. 2325 of May 24, 1947, 12 F. R. 3566), and Order No. 319 of July 19, 1948 (43 CFR 50.451, 13 F. R. 4278), it is ordered as follows:

Subject to valid existing rights and the provisions of existing withdrawals, the 80-rod shore space reserve created under the act of May 14, 1898 (30 Stat. 409), as amended by the act of March 3, 1903 (32 Stat. 1028, 48 U. S. C. 371), is hereby revoked as to the following described lands;

SEWARD MERIDIAN

T. 12 N., R. 3 W.,
Sec. 32: Lots 1, 3, 4, containing approximately 132.56 acres.
T. 12 N., R. 4 W.,
Sec. 15: Lot 5,
Sec. 22: Lot 1,
Sec. 23: Lots 2, 4,
Sec. 26: Lot 1,
Containing approximately 112.40 acres.

The above described lands aggregate approximately 244.96 acres.

No application for these lands may be allowed under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U. S. C. 682a), unless the land has already been classified as valuable or suitable for such type of application or shall be so classified upon consideration of an application.

At 10:00 a. m. on April 11, 1951 the lands shall, subject to valid existing rights and the provisions of existing withdrawals become subject to application, petition, location, or selection as follows:

(a) *Ninety-day period for preference-right filings.* For a period of 90 days from April 11, 1951, to July 9, 1951, inclusive, the public lands affected by this order shall be subject to (1) application under the homestead or homesite laws, or the Small Tract Act of June 1, 1938 (52 Stat. 609, 43 U. S. C. sec. 682a) as amended by qualified veterans of World War II, for whose service recognition is granted by the act of September 27, 1944 (58 Stat. 747, 43 U. S. C. secs. 279–283), as amended, subject to the requirements of applicable law, and (2) application under any applicable public-land law, based on prior existing valid settlement rights and preference rights conferred by existing laws or equitable claims subject to allowance and confirmation. Applications by such veterans shall be subject to claims of the classes described in subdivision (2).

(b) *Twenty-day advance period for simultaneous preference-right filings.* For a period of 20 days from March 22, 1951, to April 10, 1951, inclusive, such veterans and persons claiming preference rights superior to those of such veterans, may present their applications, and all such applications, together with those presented at 10:00 a. m. on April 11, 1951, shall be treated as simultaneously filed.

(c) *Date for non-preference right filings authorized by the public land laws.* Commencing at 10:00 a. m. on July 10, 1951, any of the lands remaining unappropriated shall become subject to such application, petition, location, or selection by the public generally as may be authorized by the public land laws.

(d) *Twenty-day advance period for simultaneous non-preference right filings.* Applications by the general public may be presented during the 20-day period from June 20, 1951, to July 9, 1951, inclusive, and all such applications, together with those presented at 10:00 a. m. on July 10, 1951, shall be treated as simultaneously filed.

A veteran shall accompany his application with a complete photostatic, or other copy (both sides), of his certificate of honorable discharge, or of an official document of his branch of the service which shows clearly his honorable discharge as defined in § 181.36 of Title 43 of the Code of Federal Regulations, or constitutes evidence of other facts upon which the claim for preference is based and which shows clearly the period of service. Other persons claiming credit for service of veterans must furnish like proof in support of their claims. Persons asserting preference rights, through settlement or otherwise, and those having equitable claims, shall accompany their applications by duly corroborated statements in support thereof, setting forth in detail all facts relevant to their claims.

Applications for these lands, which shall be filed in the Land Office at Anchorage, Alaska, shall be acted upon in accordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations (Circular No. 324, May 22, 1914, 43 L. D. 254), to the extent that such regulations are applicable. Applications under the homestead and homesite laws shall be governed by the regulations contained in Parts 64, 65 and 66, of Title 43 of the Code of Federal Regulations and applications under the Small Tract Act of June 1, 1938, shall be governed by the regulations contained in Part 257 of that Title.

Inquiries concerning these lands shall be addressed to the Land Office at Anchorage, Alaska.

LOWELL M. PUCKETT,
Regional Administrator.

[F. R. Doc. 51-3856; Filed, Mar 29, 1951; 8:48 a. m.]

Office of the Secretary

[Order 2623]

COMMISSIONER OF BUREAU OF RECLAMATION

DELEGATION OF AUTHORITY WITH RESPECT TO CONTRACTS FOR REHABILITATION AND BETTERMENT WORK BY WATER USERS' ORGANIZATIONS

SECTION 1. The Commissioner of Reclamation may execute contracts for the performance of rehabilitation and betterment work by water users' organizations as provided in the act of October 7, 1949 (43 U. S. C., Supp. III sec. 504), as amended, substantially in accordance with the terms and conditions established by the Secretary of the Interior and subject to the availability of appropriations.

SEC. 2. *Redelegation.* The Commissioner may in writing redelegate, within appropriate limitations, to an Assistant Commissioner, the Chief Engineer, or the official in charge of any region, district, division, or project of the Bureau of Reclamation, the authority granted in section 1 of this order.

(5 U. S. C., 1946 ed., sec. 22; 16 U. S. C., 1946 ed., sec. 590z–11; Reorg. Plan No. 3 of 1950)

WILLIAM E. WARNE,
Acting Secretary of the Interior.

MARCH 21, 1951.

[F. R. Doc. 51-3846; Filed Mar. 29, 1951; 8:46 a. m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

[Docket No. M-28]

LUCKENBACH STEAMSHIP CO., INC.

NOTICE OF HEARING ON APPLICATION TO BAREBOAT CHARTER GOVERNMENT-OWNED, WAR-BUILT, DRY-CARGO VESSELS FOR USE IN INTERCOASTAL TRADE

Pursuant to section 3, Public Law 591, 81st Congress, notice is hereby given that an informal public hearing will be held at Washington, D. C., on April 3, 1951, at 10 o'clock a. m., in Room 4821, Department of Commerce Building, before Examiner Robert Furness, upon the application of Luckenbach Steamship Company, Inc., to bareboat charter Government-owned, war-built, dry-cargo vessels for use in the intercoastal trade. This application will be heard jointly with those of Pacific-Atlantic Steamship Co. (Docket No. M–16) and Pope & Talbot, Inc. (Docket No. M–17) now scheduled for further hearing at the same time and place.

The purpose of the hearing is to receive evidence with respect to whether the service for which such vessels are proposed to be chartered is required in the public interest and would not be adequately served without the use therein of such vessels, and with respect to the availability of privately-owned American-flag vessels for charter on reasonable conditions and at reasonable rates for use in such service.

All persons having an interest in such application will be given an opportunity to be heard if present.

The parties may have oral argument before the examiner immediately following the close of the hearing, in lieu of briefs, and the examiner will issue a recommended decision. Parties may have two (2) days within which to file exceptions to or memoranda in support of the examiner's recommended decision, but the Board reserves the right to determine whether oral argument on exceptions will be granted or whether briefs in connection therewith will be received.

Dated: March 27, 1951.

By order of the Federal Maritime Board.

[SEAL] A. J. WILLIAMS,
Secretary.

[F. R. Doc. 51-3864; Filed, Mar. 29, 1951; 8:50 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

LEARNER EMPLOYMENT CERTIFICATES

NOTICE OF ISSUANCE TO VARIOUS INDUSTRIES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938, as amended (52 Stat. 1068, as amended; 29 U. S. C. and Sup. 214), and Part 522 of the regulations issued thereunder (29 CFR Part 522), special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates applicable under section 6 of the act have been issued to the firms listed below. The employment of learners under these certificates is limited to the terms and conditions therein contained and is subject to the provisions of Part 522. The effective and expiration dates, occupations, wage rates, number or proportion of learners, and learning period for certificates issued under the general learner regulations (§§ 522.1 to 522.14) are as indicated below; conditions provided in certificates issued under special industry regulations are as established in those regulations.

Single Pants, Shirts and Allied Garments, Women's Apparel, Sportswear and Other Odd Outerwear, Robes and Leather and Sheep-Lined Garments Divisions of the Apparel Industry Learner Regulations (29 CFR 522.160 to 522.166, as amended September 25, 1950; 15 F. R. 5701; 6326).

All American Dress Co., 40 North Sixth Street, Lebanon, Pa., effective 4–1–51 to 3–31–52; 10 learners, normal labor turnover (children's dresses, blouses and sportswear).

Walter E. Allen, N. W. Forty-second and Santa Fe, Oklahoma City, Okla., effective 3–16–51 to 9–15–51; 50 learners for expansion purposes (work clothes for Army).

Anthracite Shirt Co., 1 South Franklin Street, Shamokin, Pa., effective 4–1–51 to 3–31–52; 10 percent normal labor turnover (men's dress and sport shirts).

Bedford Manufacturing Corp., 381 Pleasant Street, Fall River, Mass., effective 4–1–51 to 3–31–52; 10 percent normal labor turnover (ladies' house dresses).

Blue Bell, Inc., Elkton, Va., effective 4–1–51 to 3–31–52; for normal labor turnover, 10 percent or 10 learners, whichever is greater (dungarees).

Blue Bell, Inc., Luray, Va., effective 4–1–51 to 3–31–52; 10 learners for normal labor turnover (dungarees).

Blue Bell, Inc., Madison, Va., effective 4–1–51 to 3–31–52; five learners for normal labor turnover (dungarees).

Blue Bell, Inc., Mount Jackson, Va., effective 4–1–51 to 3–31–52; 10 percent normal labor turnover (dungarees).

Blue Bell, Inc., Shenandoah, Va., effective 4–1–51 to 3–31–52; for normal labor turnover, 10 percent or 10 learners, whichever is greater (dungarees).

Cowden Manufacturing Co., East Main Street, Stanford, Ky., effective 3–15–51 to 9–14–51; 150 learners for expansion purposes (denim bib overalls).

Crown Chenille, Inc., 110 Chace Street, Fall River, Mass., effective 3–15–51 to 9–14–51; 25 learners for expansion purposes (chenille robes).

Dillsburg Dress Co., York Street, Dillsburg, Pa., effective 4–1–51 to 3–31–52; five learners for normal labor turnover (ladies' cotton dresses).

M. K. Dress Co., 105 Corner Street, Dunmore 12, Pa., effective 3–22–51 to 3–21–52; five learners for normal labor turnover (children's dresses).

Mildred Dress Co., 701 Washington Avenue, Jermyn, Pa., effective 3–19–51 to 3–18–52; for normal labor turnover, 10 percent or 10 learners, whichever is greater (ladies' dresses).

Economy Blouse Co., 94 Sawyer Street, New Bedford, Mass., effective 4–1–51 to 3–31–52; 10 percent normal labor turnover (boys' shirts; ladies' blouses).

Gordon Edwards, Inc., 1305 Pecan Street, Commerce, Tex., effective 3–19–51 to 3–18–52; 10 learners for normal labor turnover. (women's and misses' dresses and sportswear).

Ely & Walker Dry Goods Co., Illmo, Mo., effective 3–15–51 to 9–15–51; 75 learners for expansion purposes (overalls, dungarees, etc).

Hickory Flat Manufacturing Co., Hickory Flat, Miss., effective 4–1–51 to 3–31–52; 10 learners for normal labor turnover (men's and boys' cotton work shirts).

Industrial Garment Manufacturing Co., 201 East Oak Street, Palestine, Tex., effective 4–1–51 to 3–31–52; 10 learners for normal labor turnover (bakers' and cooks' white pants; cotton khaki pants).

Industrial Garment Manufacturing Co., 201 East Oak Street, Palestine, Tex., effective 4–1–51 to 10–1–51; five learners for expansion purposes (bakers' and cooks' white pants; cotton khaki pants).

Insler Bros. Dress Co., 511 Chapel Street, New Haven, Conn., effective 3–19–51 to 3–18–52; 10 percent normal labor turnover (ladies' dresses).

Johnson & Co., 100 South Minnesota Avenue, St. Peter, Minn., effective 4–1–51 to 3–31–52; 10 learners for normal labor turnover (men's and boys' work clothing; aprons for industrial use; blanket-lined coats).

Phillips Jones Factory, Geneva, Ala., effective 4–1–51 to 3–31–52; 10 percent normal labor turnover (men's dress shirts).

Karen Sportswear, R. D. 2, Shickshinny, Pa., effective 4–1–51 to 3–31–52; five learners for normal labor turnover (women's dresses).

Julius Kayser & Co., Moscow, Pa., effective 4–1–51 to 3–31–52; 10 percent normal labor turnover (women's underwear).

Keystone Mills, Inc., 325 South Lancaster Street, Annville, Pa., effective 4–1–51 to 3–31–52; 10 percent normal labor turnover (cotton polo shirts; ladies' cotton underwear).

Korach Bros. Co., 437 Perry Street, Marseilles, Ill., effective 3–16–51 to 3–15–52; 10 learners for normal labor turnover (women's and misses' dresses).

Linda-Lou Lingerie, Inc., Rexmont, Pa., effective 3–16–51 to 3–15–52; five learners for normal labor turnover (ladies' slips).

M & S Co., Inc., 2607 Desiard Street, Monroe, La., effective 4–1–51 to 3–31–52; 10 learners for normal labor turnover (men's and boys' slacks and dress pants).

MacLaren Sportswear Corp., Florence and Lumber Streets, Buckhannon, W. Va., effective 4–1–51 to 3–31–52; for normal labor turnover, 10 percent or 10 learners, whichever is greater (men's slacks).

George Manufacturing Corp., 161 North Main Street, Pittston, Pa., effective 3–16–51 to 3–15–52; 10 learners for normal labor turnover (women's blouses).

Massachusetts Shirt Manufacturing Corp., 274 Belleville Ave., New Bedford, Mass., effective 3–19–51 to 3–18–52; 10 learners for normal labor turnover (men's sport shirts).

Mauch Chunk Kiddy Kloes, 437 South Street, Mauch Chunk, Pa., effective 3–19–51 to 3–18–52; 10 learners for normal labor turnover (children's dresses).

Miami Guild Embroideries, 19 North West Eighth Street, Miami, Fla., effective 3–16–51 to 3–15–52; five learners for normal labor turnover (ladies' and children's sportswear).

Miller Bros., 1619 Preston Avenue, Houston, Tex., effective 4–1–51 to 3–31–52; 10 percent for normal labor turnover (cotton work pants and shirts; denim overalls, jeans and jackets).

Mode O'Day Corp., Fourth and Main, Ottawa, Kans., effective 4–1–51 to 3–31–52; 10 percent for normal labor turnover (ladies' cotton and rayon dresses).

November Co., Inc., 116 South Street, Glens Falls, N. Y., effective 3–19–51 to 9–18–51; 10 learners for expansion purposes only (Government field jackets without liners).

R & G Sportswear Corp., 1216 Main Street, Northampton, Pa., effective 3–16–51 to 3–15–52; seven learners for normal labor turnover (women's blouses and pajamas).

Reegon, Inc., Jonesville, N. C., effective 3–13–51 to 9–12–51; 13 learners for expansion purposes (women's play clothes and children's pajamas).

Rexmont Mills, Inc., Rexmont, Pa., effective 3–19–51 to 9–15–51; 10 learners for expansion purposes (shoulder straps; ladies' slips).

Salisbury Undergarment Co., Inc., Salisbury, Pa., effective 3–14–51 to 9–13–51; five additional learners for expansion purposes (ladies' panties).

Salisbury Undergarment Co., Inc., Salisbury, Pa., effective 3–14–51 to 3–13–52; for normal labor turnover, 10 percent or 10 learners, whichever is greater (ladies' panties).

Sally Blouse Co., Inc., 648 South Main Street, Old Force, Pa., effective 3–15–51 to 3–14–52; 10 percent normal labor turnover (blouses).

Sportstyle Apparel, 6405 Park Avenue, West New York, N. J., effective 3–22–51 to 3–21–52; five learners for normal labor turnover (dresses).

Stafford-Hayes, Inc., 402 South State Street, Clark's Summit, Pa., effective 3–19–51 to 9–15–51; 15 learners for expansion purposes (ladies' dresses, blouses and sportswear).

Steingut Dress Co., 228 Everhart Street, Dupont, Pa., effective 4–1–51 to 3–31–52; 10 learners for normal labor turnover (street dresses).

Sturgis Clothing, Inc., Sixth and Main Streets, Sturgis, Ky., effective 4–1–51 to 3–31–52; 10 learners for normal labor turnover (single pants).

Troutman Shirt Co., Inc., Troutman, N. C., effective 4–1–51 to 3–31–52; 10 percent for normal labor turnover (work shirts).

Vernon Manufacturing Co., Inc., Vernon, Tex., effective 4–1–51 to 3–31–52; 10 percent for normal labor turnover (men's and boys' cotton trousers).

The C. E. Ward Co., New London, Ohio, effective 4–1–51 to 3–31–52; 10 learners for normal labor turnover (lodge regalia; school graduation gowns; church vestments; band uniforms; nurses capes, etc.)

Warrior Run Dress Co., Inc., 36 Academy Street, Wilkes-Barre, Pa., effective 3–16–51 to 3–15–52; 10 learners for normal labor turnover (ladies' better dresses).

Whittemore Manufacturing Co., Wolfe City, Tex., effective 3–16–51 to 3–15–52; five learners for normal labor turnover (ladies' and children's dresses).

J. M. Wood Manufacturing Co., Inc., 224–26 South Sixth Street, Waco, Tex., effective 3–30–51 to 3–29–52; 10 percent for normal labor turnover (Government OD coveralls and khaki trousers; men's work pants and denim jackets).

Cigar Industry Learner Regulations (29 CFR 522.201 to 522.211, as amended January 25, 1950; 15 F. R. 400).

I. Lewis Cigar Manufacturing Co., Salem, Ala., effective 4–1–51 to 3–31–52; for normal labor turnover, 10 percent of the productive factory workers engaged in each of the authorized occupations; cigar machine operating, and packing (cigars retailing for more than 6 cents), each 320 hours; packing (cigars retailing for 6 cents or less), machine stripping, and hand stripping, each 160 hours; 60 cents per hour.

Hosiery Industry Learner Regulations (29 CFR 522.40 to 522.51, as revised January 25, 1950; 15 F. R. 283).

Duke Hosiery Corp., Hickory, N. C., effective 3–15–51 to 3–14–52; five learners for normal labor turnover.

Holt Hosiery Mills, Inc., Glen Raven, N. C., effective 3–16–51 to 11–15–51; 10 learners for expansion purposes.

Silver Knit Hosiery Mills, Inc., High Point, N. C., effective 3–16–51 to 3–15–52; 5 percent for normal labor turnover.

Tenn-Rock Hosiery Co., McMinnville, Tenn., effective 3–20–51 to 11–19–51; 10 learners for expansion purposes.

Van Raalte Co., Inc., Bryson City, N. C., effective 3–13–51 to 11–12–51; for expansion purposes, 10 additional learners in hosiery occupations only.

Van Raalte Co., Inc., Bryson City, N. C., effective 3–13–51 to 3–12–52; for normal labor turnover, 5 percent of total productive factory workers, in hosiery occupations only.

Mrs. E. T. Williams, route 3, box 350, Hickory, N. C., effective 3–15–51 to 3–14–52; three learners for normal labor turnover.

Knitted Wear Industry Learner Regulations (29 CFR 522.69 to 522.79, as amended January 25, 1950; 15 F. R. 398).

Burlington Manufacturing Co., Inc., Waymart, Pa., effective 4-1-51 to 3-31-52; 5 percent for normal labor turnover.

Devon Knitting Mills, Eshbach, Pa. effective 4-1-51 to 3-31-52; five learners for normal labor turnover.

Ellwood Knitting Mills, Inc., 911 Lawrence Avenue, Ellwood City, Pa., effective 3-27-51 to 9-26-51; 35 learners for expansion purposes only.

Joseph B. Haber, Inc., Philadelphia, Pa., effective 4-1-51 to 3-31-52; four learners for normal labor turnover.

Hamburg Knitting Mills, Inc., Hamburg, Pa., effective 4-1-51 to 3-31-52; 5 percent for normal labor turnover.

Julius Kayser & Co., Allentown, Pa., effective 4-1-51 to 3-31-52; five learners for normal labor turnover.

Julius Kayser & Co., Bangor, Pa., effective 4-1-51 to 3-31-52; five learners for normal labor turnover.

J. J. Miller Knitting Mills, 213-215 North White Street, Shenandoah, Pa., effective 4-1-51 to 3-31-52; three learners for normal labor turnover.

J. E. Morgan Manufacturing Co., Tamaqua, Pa., effective 4-1-51 to 3-31-52; 5 percent for normal labor turnover.

Van Raalte Co., Inc., Bristol, Vt., effective 4-1-51 to 3-31-52; five learners for normal labor turnover.

Van Raalte Co., Inc., Middlebury, Vt., effective 4-1-51 to 3-31-52; 5 percent for normal labor turnover.

Wonderknit Corp., Lindenhurst, N. Y., effective 3-16-51 to 3-15-52; five learners for normal labor turnover.

Worcester Knitting Co., Worcester, Mass., effective 4-1-51 to 3-31-52; 5 percent normal labor turnover.

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.14).

Cooney Sail Co., Inc., Gloucester, Mass., effective 3-19-51 to 9-18-51; three learners for normal labor turnover; machine operators, 240 hours, 60 cents per hour (duffel bags).

Crest Manufacturing Co., Edgefield, S. C., effective 3-15-51 to 9-14-51; 12 learners for expansion purposes; sewing machine operators, 240 hours, 60 cents per hour (auto seat covers).

Marston Broom Works, Marston, N. C., effective 3-19-51 to 9-18-51; five learners for normal labor turnover; broom stitchers and broom winders, each 320 hours; 60 cents per hour (brooms and mops).

Nord-Buffam Pearl Button Co., Louisiana, Mo., effective 3-18-51 to 9-17-51; three learners for normal labor turnover; blank button cutting, and finished button sorting, each 480 hours; 60 cents per hour for the first 320 hours and 65 cents per hour for the remaining 160 hours (fresh water pearl buttons).

Scranton Belt Co., Dunmore, Pa., effective 4-1-51 to 9-30-51; three learners for normal labor turnover; machine operating (except cutting), 320 hours; 60 cents per hour (belts for women's dresses).

Winsor Manufacturing Co., 44 Hazel Street, Woonsocket, R. I., effective 4-1-51 to 3-31-52; three learners for normal labor turnover; sewing machine operators, 320 hours; 60 cents per hour (handkerchiefs).

The Howard Zink Corp., Charleston, Miss., effective 3-19-51 to 9-18-51; four learners for normal labor turnover; sewing machine operators, 240 hours; 65 cents per hour (auto seat covers).

Each certificate has been issued upon the employer's representation that employment of learners at subminimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be cancelled in the manner provided in the regulations and as indicated in the certificates. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of Part 522.

Signed at Washington, D. C., this 22d day of March 1951.

ISABEL FERGUSON,
Authorized Representative of the Administrator.

[F. R. Doc. 51-3857; Filed, Mar. 29, 1951; 8:49 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 9778, 9930]

KINSTON BROADCASTING CO. (WFTC) AND FARMERS BROADCASTING SERVICE, INC. (WELS)

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Kinston Broadcasting Company (WFTC), Kinston, North Carolina, Docket No. 9778, File No. BP-7752; Farmers Broadcasting Service, Inc. (WELS), Kinston, North Carolina, Docket No. 9930, File No. BP-7979; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 21st day of March 1951;

The Commission having under consideration the above-entitled applications of Kinston Broadcasting Company requesting a construction permit to change the facilities of Station WFTC, Kinston, North Carolina, from frequency 1230 kilocycles, 250 watts power, unlimited time to frequency 960 kilocycles, 1 kilowatt power, unlimited time, to install directional antenna for night use only and to change transmitter location and of Farmers Broadcasting Service, Inc. to change the facilities of Station WELS, Kinston, North Carolina, from frequency 1010 kilocycles, 1 kilowatt power, daytime only to frequency 960 kilocycles, 1 kilowatt, 5 kilowatts—LS power, unlimited time, to install directional antenna for night use only and to install new transmitter;

It is ordered, That, pursuant to section 309 (a) of the Communications Act of 1934, as amended, the said applications are designated for hearing in a consolidated proceeding commencing at 10:00 a. m. on May 23, 1951, at Washington, D. C., upon the following issues:

1. To determine the technical, financial and other qualifications of the corporate applicants, their officers, directors and stockholders to construct and operate stations WFTC and WELS as proposed.

2. To determine the areas and populations which may be expected to gain or lose primary service from the operation of Stations WFTC and WELS, as proposed, and the character of other broadcast service available to such areas and populations.

3. To determine the type and character of program service proposed to be rendered and whether it would meet the requirements of the populations and areas proposed to be served.

4. To determine whether the operation of Stations WFTC and WELS, as proposed, would involve objectionable interference with any other existing broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

5. To determine whether the operation of Stations WFTC and WELS, as proposed, would involve objectionable interference, each with the other, or with the services proposed in any other pending applications for broadcast facilities, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

6. To determine whether the installation and operation of Stations WFTC and WELS, as proposed, would be in compliance with the Commission's rules and Standards of Good Engineering Practice Concerning Standard Broadcast Stations.

7. To determine the overlap, if any, that will exist between the service areas of Station WFTC operating as proposed and of Stations WRRF, Washington, North Carolina and WRRZ, Clinton, North Carolina, the nature and extent thereof, and whether such overlap, if any, is in contravention of § 3.25 of the Commission's rules.

8. To determine whether the installation and operation of Station WFTC, as proposed, would constitute a hazard to air navigation.

9. To determine on a comparative basis which, if either, of the applications in this consolidated proceeding should be granted.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 51-3866; Filed, Mar. 29, 1951; 8:50 a. m.]

[Docket No. 9926]

WAYNE M. NELSON (WHIP)

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Wayne M. Nelson (WHIP), Mooresville, North Carolina, Docket No. 9926, File No. BP-7835; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 21st day of March 1951;

The Commission having under consideration the above-entitled application of Wayne M. Nelson, licensee of Station WHIP presently operating on the frequency 1350 kilocycles, 1 kilowatt, daytime only at Mooresville, North Carolina, for an increase in power from one

kilowatt to five kilowatts and install a new transmitter;

It appearing, that the applicant is legally, technically, financially and otherwise qualified to operate Station WHIP, as proposed, but that the application may not comply with the standards of Good Engineering Practice;

It is ordered, That, pursuant to section 309 (a) of the Communications Act of 1934, as amended, the said application is designated for hearing commencing at 10:00 a. m. on May 11, 1951, at Washington, D. C., upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the operation of Station WHIP, as proposed, and the character of other broadcast service available to such areas and populations.

2. To determine whether the installation and operation of Station WHIP, as proposed, would be in compliance with the Commission's rules and standards of good engineering practice concerning standard broadcast stations, with particular reference to the percentage of population residing within 250 mv/m blanket contour.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 51-3865; Filed, Mar. 29, 1951; 8:50 a. m.]

FEDERAL POWER COMMISSION

[Docket No. E-6264]

NIAGARA MOHAWK POWER CORP.

ORDER POSTPONING DATE OF RESUMPTION OF HEARING

MARCH 23, 1951.

In the matter of Niagara Mohawk Power Corporation (successor licensee to The Niagara Falls Power Company, Docket No. E-6264.

By petition filed March 21, 1951, Niagara Mohawk Power Corporation has requested a further postponement of the date of resumption of the hearing in the above-entitled matter from March 28, 1951, to one of the several dates in the month of April 1951 suggested in the petition.

The Applicant requests that the witness which it wishes to produce at the resumed hearing, now set pursuant to direction of the Presiding Examiner for March 28, 1951, cannot be produced conveniently before April 4, 1951.

It appears that the public interest will not be adversely affected by the granting of a further postponement.

The Commission orders: The hearing in the above-entitled matter now set for resumption on March 28, 1951, shall be resumed on April 4, 1951, in the Hearing Room of the Federal Power Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue NW., Washington, D. C.

Date of issuance: March 26, 1951.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 51-3847; Filed, Mar. 29, 1951; 8:46 a. m.]

GENERAL SERVICES ADMINISTRATION

SECRETARY OF THE INTERIOR

DELEGATION OF AUTHORITY WITH RESPECT TO PROCUREMENT OF SUPPLIES AND SERVICES FOR PRODUCTION OF HELIUM GAS

1. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, as amended, (Pub. Laws 152 and 754, 81st Cong.), herein called the act, authority is hereby delegated to the Secretary of the Interior, to the extent necessary to carry out his responsibilities for the production and distribution of helium gas:

a. To make purchases and contracts for supplies and services under Title III of the act, and without advertising in accord with the provisions and requirements of section 302 (c) (1), (2), (3), (4), (9), (10), (12), (13), and (14).

2. This authority shall be exercised strictly in accord with other provisions of the act, and particularly section 307 requiring written findings in certain instances, preservation of data, and reports to the General Accounting Office.

3. The authority delegated herein may be redelegated to any officer or employee of the Department of the Interior, within the limitations of section 307 (b) of the act.

This delegation of authority shall be effective as of the date hereof.

Dated: March 27, 1951.

RUSSELL FORBES,
Acting Administrator.

[F. R. Doc. 51-3867; Filed, Mar. 29, 1951; 8:50 a. m.]

HOUSING AND HOME FINANCE AGENCY

Federal Housing Administration

2¾ PERCENT HOUSING INSURANCE FUND DEBENTURES, SERIES D

NOTICE OF CALL FOR PARTIAL REDEMPTION

MARCH 16, 1951.

Pursuant to the authority conferred by the National Housing Act (48 Stat. 1246; 12 U. S. C., sec. 1701 et seq.) as amended, public notice is hereby given that 2¾ percent Housing Insurance Fund Debentures, Series D, of the denomination and serial numbers designated below, are hereby called for redemption, at par and accrued interest, on July 1, 1951, on which date interest on such debentures shall cease:

2¾ PERCENT HOUSING INSURANCE FUND DEBENTURES, SERIES D

Denomination:	*Serial Nos. (all numbers inclusive)*
$10,000	1,437 to 1,588

The debentures first issued as determined by the issue dates thereof were selected for redemption by the Commissioner, Federal Housing Administration, with the approval of the Secretary of the Treasury.

No transfers or denominational exchanges in debentures covered by the foregoing call will be made on the books maintained by the Treasury Department on or after April 1, 1951. This does not affect the right of the holder of a debenture to sell and assign the debenture on or after April 1, 1951, and provision will be made for the payment of final interest due on July 1, 1951, with the principal thereof to the actual owner, as shown by the assignments thereon.

The Commissioner of the Federal Housing Administration hereby offers to purchase any debentures included in this call at any time from April 1, 1951, to June 30, 1951, inclusive, at par and accrued interest, to date of purchase.

Instructions for the presentation and surrender of debentures for redemption on or after July 1, 1951, or for purchase prior to that date will be given by the Secretary of the Treasury.

FRANKLIN D. RICHARDS,
Commissioner.

Approved: March 20, 1951.

E. H. FOLEY, JR.,
Acting Secretary of the Treasury.

[F. R. Doc. 51-3672; Filed, Mar. 29, 1951; 8:45 a. m.]

2¾ PERCENT MUTUAL MORTGAGE INSURANCE FUND DEBENTURES, SERIES E

NOTICE OF CALL FOR PARTIAL REDEMPTION

MARCH 16, 1951.

Pursuant to the authority conferred by the National Housing Act (48 Stat. 1246; 12 U. S. C., sec. 1701 et seq.) as amended, public notice is hereby given that 2¾ percent Mutual Mortgage Insurance Fund Debentures, Series E, of the denominations and serial numbers designated below, are hereby called for redemption, at par and accrued interest, on July 1, 1951, on which date interest on such debentures shall cease:

2¾ PERCENT MUTUAL MORTGAGE INSURANCE FUND DEBENTURES, SERIES E

Denomination:	*Serial Nos. (all numbers inclusive)*
$50	43 to 70
$100	142 to 224
$500	61 to 97
$1,000	211 to 302
$5,000	15 to 49
$10,000	303 to 325

The debentures first issued as determined by the issue dates thereof were selected for redemption by the Commissioner, Federal Housing Administration, with the approval of the Secretary of the Treasury.

No transfers or denominational exchanges in debentures covered by the foregoing call will be made on the books maintained by the Treasury Department on or after April 1, 1951. This does not affect the right of the holder of a debenture to sell and assign the debenture on or after April 1, 1951, and provision will be made for the payment of final interest due on July 1, 1951, with the principal thereof to the actual owner, as shown by the assignments thereon.

The Commissioner of the Federal Housing Administration hereby offers to purchase any debentures included in this call at any time from April 1, 1951 to June 30, 1951, inclusive, at par and accrued interest, to date of purchase.

Instructions for the presentation and surrender of debentures for redemption on or after July 1, 1951, or for purchase prior to that date will be given by the Secretary of the Treasury.

FRANKLIN D. RICHARDS,
Commissioner.

Approved: March 20, 1951.

E. H. FOLEY, Jr.,
Acting Secretary of the Treasury.

[F. R. Doc. 51-3673; Filed, Mar. 29, 1951; 8:45 a. m.]

INTERSTATE COMMERCE COMMISSION

[S. O. 874, General Permit 9]

MERCHANTS DISTILLING CORP.

LOADING REQUIREMENTS

Pursuant to the authority vested in me in paragraph (d) of Service Order No. 874 (16 F. R. 2040), permission is granted for any common carrier by railroad, subject to the Interstate Commerce Act, serving Merchants Distilling Corporation, Terre Haute, Indiana, to disregard the provisions of Service Order No. 874 insofar as it applies to any car loaded with Distillers Dried Feed and/or Distillers Solubles by Merchants Distilling Corporation when Merchants Distilling Corporation advise that service would be denied because of its inability to meet the minimum weight requirements because of the tendency of said commodities to heat, cake, and possible burning during summer months.

The waybills shall show reference to this general permit and the Merchants Distilling Corporation shall furnish the Permit Agent the dates forwarded, car numbers, initials, and destinations of the cars shipped under this permit.

This general permit shall become effective at 12:01 a. m., April 1, 1951, and shall expire at 11:59 p. m., September 15, 1951, unless otherwise modified, changed, suspended or revoked.

A copy of this general permit has been served upon the Association of American Railroads, Car Service Division, as Agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement, and notice of this permit shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 22d day of March 1951.

HOWARD S. KLINE,
Permit Agent.

[F. R. Doc. 51-3822; Filed, Mar. 29, 1951; 8:45 a. m.]

[4th Sec. Application 25950]

PETROLEUM PRODUCTS FROM BRAND, TEX. TO ARKANSAS, KANSAS, LOUISIANA, OKLAHOMA, AND MISSOURI

APPLICATION FOR RELIEF

MARCH 27, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: D. Q. Marsh, Agent, for carriers parties to his tariff I. C. C. No. 3585.

Commodities involved: Petroleum products, carloads.

From: Brand, Tex.

To: Points in Arkansas, Kansas, Louisiana, Oklahoma and southern Missouri.

Grounds for relief: Competition with rail carriers, circuitous routes and to maintain grouping.

Schedules filed containing proposed rates: D. Q. Marsh's tariff I. C. C. No. 3585, Supp. 454.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 51-3859; Filed, Mar. 29, 1951; 8:49 a. m.]

[4th Sec. Application 25951]

POTASH FROM CARLSBAD AND LOVING, N. MEX., TO POINTS IN ARKANSAS AND LOUISIANA

APPLICATION FOR RELIEF

MARCH 27, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: The Atchison, Topeka and Santa Fe Railway Company for carriers parties to its tariff I. C. C. No. 14478.

Commodities involved: Potassium (potash), carloads.

From: Carlsbad and Loving, N. Mex.

To: Eudora, Ark., Delhi and Oak Grove, La.

Grounds for relief: Competition with rail carriers, market competition and to maintain grouping.

Schedules filed containing proposed rates: AT&SF Ry. tariff I. C. C. No. 14478, Supp. 46.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 51-3860; Filed, Mar. 29, 1951; 8:49 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File Nos. 54-136, 59-83]

LONG ISLAND LIGHTING CO. ET AL.

NOTICE OF FILING AND ORDER FOR HEARING ON APPLICATIONS FOR ALLOWANCE OF FEES AND EXPENSES

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 26th day of March A. D. 1951.

In the matter of Long Island Lighting Company, Queens Borough Gas and Electric Company, Nassau & Suffolk Lighting Company, and Long Beach Gas Company, Inc.; File Nos. 54-136, 59-83.

The Commission having held combined proceedings, pursuant to section 11 (b) (2) and section 11 (e) of the Public Utility Holding Company Act of 1935 ("act"), with respect to Long Island Lighting Company ("Long Island"), a registered holding company, its subsidiary, Queens Borough Gas and Electric Company ("Queens"), and the latter's subsidiaries, Nassau & Suffolk Lighting Company ("Nassau"), and Long Beach Gas Company, Inc. ("Long Beach"), and by order dated August 25, 1948, promulgated pursuant to section 11 (b) (2) of the Act, having required the recapitalization of said companies so as to eliminate the inequitable distribution of voting power which existed in said companies, and by order dated November 17, 1949, having approved a section 11 (e) plan, as modified, proposing the consolidation of Long Island, Queens, and Nassau and the recapitalization of the resultant consolidated corporation, the name of which is Long Island Lighting Company ("Consolidated Corporation"), and said plan having become effective on October 24, 1950, and;

The plan having provided for payment by the Consolidated Corporation of all expenses, fees and remuneration in connection therewith, or proceedings with respect thereto, and the Commission in its said order of November 17, 1949, having reserved jurisdiction over all fees and expenses incurred and to be incurred in connection with said plan;

Notice is hereby given that applications for the payment of fees and reimbursement for expenses have been filed by the following persons and in the following amounts:

	Fees	Expenses	Total
Preferred stockholders committee of Long Island Lighting Co.:			
Benjamin F. Gray, chairman; Albert Ulmann, deceased, member; Albert E. Olson, member	$65,000.00	$4,034.94	$69,034.94
Unger & Pollack, and Milton Pollack, counsel; and Jeffrey S. Granger, financial adviser	350,000.00	1,566.31	351,566.31
Long Island Lighting Co. 7 percent and 8 percent preferred stockholders group:			
William C. Langley, Lawrence M. Marks, and Lee P. Stack, committee members		16,986.98	16,986.98
Percival E. Jackson, counsel	70,000.00		70,000.00
Edward de Rivera, secretary	10,000.00		10,000.00
Carl C. Brown, statistical adviser	3,500.00		3,500.00
Townsend, Elliott & Munson, counsel for individual holders of preferred stock of Long Island Lighting Co.	10,000.00	102.84	10,102.84
Protective committee for holders of the common stock of Long Island Lighting Co.		7,637.45	7,637.45
J. Donald Halstead, chairman	7,000.00	479.68	7,479.68
E. M. Nichols, member	5,500.00	32.27	5,532.27
B. F. Grizzle, member	1,500.00	206.00	1,706.00
Robert G. Knott, treasurer	3,000.00	286.22	3,286.22
Harold G. Aron, counsel	150,000.00	250.00	150,250.00
Warren & McGroddy, counsel	85,000.00	2,794.08	87,794.08
Blumenthal & Blumenthal and John D. Sullivan, counsel	30,000.00		30,000.00
Franklin C. Salisbury, counsel	880.00		880.00
Raymond A. Ransom, consulting engineer	1,806.25	300.00	2,106.25
Gilbert Associates, Inc., engineering consultants	5,491.79	172.05	5,663.84
Melvin W. Pettit, financial consultant	1,500.00		1,500.00
Charlotte J. Pettit, creditor of committee		650.67	650.67
Queens Borough Gas & Electric Co. preferred stockholders committee:			
John M. Chapman, chairman	3,500.00		3,500.00
Ivan Wright, member	3,500.00		3,500.00
William A. Cluff, member	2,750.00	277.22	3,027.22
Bernard D. Fischman, counsel	100,000.00	4,100.30	104,100.30
C. Ross Holmes, consulting engineer	3,500.00		3,500.00
Paul E. Moses, consulting engineer	3,250.00		3,250.00
McLaughlin & Stern, counsel for individual holders of the 7-percent preferred stock of Nassau & Suffolk Lighting Co.	100,000.00	4,896.46	104,896.46
Howje & Robertson, counsel for Irving Trust Co., trustee under Long Island Lighting Co. first mortgage	1,750.00		1,750.00
New York Trust Co., trustee under Long Island Lighting Co. debentures agreement	100.00		100.00
Humes, Smith & Andrews, counsel for New York Trust Co., as trustee	175.00	2.96	177.96
Guaranty Trust Co. of New York, trustee under Queens Borough Gas & Electric Co. first mortgage	6,000.00		6,000.00
Davis, Polk, Wardwell, Sunderland & Kiendl, counsel for Guaranty Trust Co. of New York, as trustee	3,000.00		3,000.00
Aggregate	1,027,703.04	44,776.43	1,072,479.47

The Commission deeming it appropriate in the public interest and in the interest of investors and consumers that a hearing be held with respect to said applications:

It is ordered, Pursuant to sections 11 (e) and 18 of the act, that the hearing herein be reconvened for the purpose of taking evidence on said applications, said hearing to commence on April 17, 1951, at 10:00 a. m., e. s. t., at the office of the Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. On such date the hearing room clerk in Room 193 will advise as to the room in which such hearing will be held, Any person, other than applicants named herein and the Long Island Lighting Company, desiring to be heard or otherwise wishing to participate in the proceeding shall file with the Secretary of the Commission, on or before April 13, 1951 a request or application relative thereto as provided by Rule XVII of the Commission's rules of practice.

It is further ordered, That William W. Swift, or any other officer or officers of the Commission designated by it for the purpose, shall preside at the hearing on such matters. The officer so designated to preside at such hearing is hereby empowered to exercise all such powers granted to the Commission under section 18 (c) of the act and to a hearing officer under the Commission's rules of practice.

The Division of Public Utilities of the Commission having advised the Commission that it has made a preliminary examination of said applications and that, upon the basis thereof, the following matters and questions are presented for consideration by the Commission, without prejudice to its specifying additional matters and questions upon further examination:

1. Whether the services and disbursements for which remuneration has been paid or is sought are compensable, and whether it is lawful or appropriate to grant any allowances for fees and expenses to the persons making such claims.

2. Whether the amounts are fair and reasonable and, if not, what amounts should be fixed by the Commission.

It is further ordered, That particular attention be directed at said hearing to the foregoing matters and questions.

It is further ordered, That a copy of this notice shall be mailed by registered mail to Long Island Lighting Company and the applicants herein, that notice shall be given to all other persons by general release of this Commission, which shall be distributed to the press and mailed to the mailing list for releases under the Act, and that further notice shall be given to all persons by publication of this notice in the FEDERAL REGISTER.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 51-3849; Filed, Mar. 29, 1951; 8:46 a. m.]

[File No. 70-2595]

UTAH POWER & LIGHT CO.

NOTICE OF FILING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 26th day of March A. D. 1951.

Notice is hereby given that Utah Power & Light Company ("Utah"), a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 and has designated section 9 (a) thereof as applicable to the proposed transaction, which is summarized as follows:

Utah proposes to purchase from the Village of Arco, Idaho ("Arco"), a municipal corporation existing under the laws of the State of Idaho, the electrical distribution lines and facilities owned by Arco for a cash consideration of $70,000 and also proposes to purchase from Arco for a cash consideration of $30,000 a transmission line owned by Arco. In addition Utah will pay Arco the actual net cost of additions to the property made between January 31, 1950, and the date of the transfer.

Arco owns no generating facilities but purchases all of its energy from Utah. The application states further that the transmission line of Arco connects with the interconnected system of Utah.

Notice is further given that any interested person may, not later than April 10, 1951 at 11:30 a. m., e. s. t., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law raised by said application, which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after April 10, 1951 at 11:30 a. m., e. s. t., said application as filed, or as amended, may be granted and permitted to become effective as provided by Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transactions as provided in Rule U-20 (a) and Rule U-100 thereof. All interested persons are referred to said application, which is on file with the Commission, for a statement of the transactions therein proposed.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 51-3848; Filed, Mar. 29, 1951; 8:46 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

Vesting Order 17522

MRS. MARIE SOBCZAK ET AL.

In re: Rights of Mrs. Marie Sobczak et al. under annuity contract. File No. F-28-24347-H-1.

Under the authority of the Trading With the Enemy Act, as amended, Exec-

utive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Mrs. Marie Sobczak, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the domiciliary personal representatives, heirs, next of kin, legatees and distributees, names unknown, of Robert Sobczak, deceased, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

3. That the net proceeds due or to become due under an annuity contract evidenced by policy No. 3025 AB, issued by the Metropolitan Life Insurance Company, New York, New York, to Robert Sobczak, together with the right to demand, receive and collect said net proceeds, is property within the United States, owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

4. That to the extent that the person named in subparagraph 1 hereof and the domiciliary personal representatives, heirs, next of kin, legatees and distributees, names unknown, of Robert Sobczak, deceased, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C. on March 13, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-3870; Filed, Mar. 29, 1951; 8:51 a. m.]

[Vesting Order 17524]

ELIZABETH SUESSMUTH (SUSSMUTH)

In re: Rights of Elizabeth Suessmuth (Sussmuth) under insurance contracts. File No. F-28-14259-H-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Elizabeth Suessmuth (Sussmuth), whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the net proceeds due or to become due under contracts of insurance evidenced by policies Nos. 99980 and 784650, issued by the Kansas City Life Insurance Company, Kansas City, Missouri, to Elizabeth Suessmuth (Sussmuth), together with the right to demand, receive and collect said net proceeds, is property within the United States owned or controlled by, payable or deliverable to, held on behalf of, or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 13, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-3871; Filed, Mar. 29, 1951; 8:52 a. m.]

[Vesting Order 17526]

EMI (VON ANDREAE) VOS

In re: Rights of Emi (von Andreae) Vos under insurance contracts. File No. F-28-1323-H-1, H-2.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Emi (von Andreae) Vos, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the net proceeds due or to become due to Emi (von Andreae) Vos under supplemental annuity contracts No. SN 17691B and SN 17692B, issued by The Mutual Life Insurance Company of New York, New York, New York, to Emi von Andreae, together with the right to demand, receive and collect said net proceeds, is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 13, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-3872; Filed, Mar. 29, 1951; 8:52 a. m.]

[Vesting Order 17537]

FREDERICK C. WEBER

In re: Estate of Frederick C. Weber. File No. 017-26841.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Carl Bernhard Weber, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of Carl Bernhard Weber in and to the sum of $6,056.39, deposited with the Treasurer of the Territory of Alaska pursuant to an order of the Probate Court, Anchorage Precinct, Third Division, Anchorage, Alaska dated May 29, 1946 in the matter of the Estate of Frederick C. Weber, deceased, Probate Cause No. 759, including but not limited to all rights, claims, demands and causes of action of said Carl Bernhard Weber to sue for and demand delivery of the share in said sum so deposited to which he is entitled, is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States

requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 19, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-3873; Filed, Mar. 29, 1951; 8:52 a. m.]

[Vesting Order 17573]

KENJIRO NOMIYAMA

In re: Real property owned by Kenjiro Nomiyama. F-39-6983.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Kenjiro Nomiyama, whose last known address is Japan, is a resident of Japan and a national of a designated enemy country (Japan);

2. That the property described as follows: Real property situated in the City of Richmond, County of Contra Costa, State of California, particularly described as Lot Twelve (12), Block Five (5), Nystrom's Addition to part of Richmond, as per map recorded in Book 13 of Maps at page 30 of Contra Costa County Records, together with all hereditaments, fixtures, improvements and appurtenances thereto, and any and all claims for rents, refunds, benefits or other payments, arising from the ownership of such property,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described in subparagraph 2 hereof, subject to recorded liens, encumbrances and other rights of record held by or for persons who are not nationals of designated enemy countries, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 23, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-3874; Filed, Mar. 29, 1951; 8:52 a. m.]

[Return Order 915]

JOHANN HABERPOINTNER

Having considered the claim set forth below and having issued a determination allowing the claim, which is incorporated by reference herein and filed herewith,

It is ordered, That the claimed property, described below and in the determination, be returned, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Notice of Intention To Return Published, and Property

Johann Haberpointner, Oberalm bei Salzburg, Austria, Claim No 39397; February 17, 1951 (16 F. R. 1702); $1,243.65 in the Treasury of the United States.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on March 26, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-3877, Filed, Mar. 29, 1951, 8:54 a. m.]

[Return Order 904]

RAFFAELA AND LUIGI NUNZIATO

Having considered the claim set forth below and having issued a determination allowing the claim, which is incorporated by reference herein and filed herewith,

It is ordered, That the claimed property, described below and in the determination, be returned, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Notice of Intention To Return Published, and Property

Raffaela Nunziato, Ustica, Palermo, Italy, Claim No. 31258; Luigi Nunziato, Ustica, Palermo, Italy, Claim No. 30641; December 21, 1950 (15 F. R. 9176); $3,794.27 in the Treasury of the United States. $8,303.08 in the Treasury of the United States.

One (1) $500 The Wacker-Wabash Corporation, an Illinois corporation, 5% Mortgage Income Bond, dated January 1, 1935, due January 1, 1965, numbered D-665, registered in the name of the Alien Property Custodian of the United States and presently held in safekeeping by the Federal Reserve Bank of New York, New York.

Twenty (20) shares of $1.00 par value The Wacker-Wabash Corporation, an Illinois corporation, voting trust certificate for capital stock, Certificate No. VT-5146 for twenty shares issued in the name of the Alien Property Custodian of the United States and presently held in safekeeping by the Federal Reserve Bank of New York, New York.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on March 26, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General
Director, Office of Alien Property.

[F. R. Doc. 51-3875; Filed, Mar. 29, 1951; 8:52 a. m.]

[Return Order 911]

RECHA ROTHSCHILD ET AL.

Having considered the claim set forth below and having issued a determination allowing the claim, which is incorporated by reference herein and filed herewith,

It is ordered, That the claimed property, described below and in the determination, be returned, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Notice of Intention To Return Published, and Property

Recha Rothschild, Brooklyn, New York; Kathinka Lassman, Detroit, Michigan; Jacob Buehler, Detroit, Michigan; Irma Lowenfels, New York, New York; Claim No. 4856; January 16, 1951 (16 F. R. 416); $699.80 in the Treasury of the United States, one-fourth thereof to each claimant.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on March 26, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-3876; Filed, Mar. 29, 1951; 8:53 a. m.]